SENATE—*Wednesday, August 5, 1992*

The Senate met at 9 a.m., and was called to order by the Honorable HARRIS WOFFORD, a Senator from the State of Pennsylvania.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Is any thing too hard for the Lord? * * *—Genesis 18:14.

Almighty God, Lord of heaven and Earth, this question addressed to Abraham, father of the faith, is rhetorical and has only one answer: Nothing is too hard for God! However impossible national or global crises may seem, "With God all things are possible." You work through leadership to accomplish Your purposes, Lord, assuming leadership acknowledges its need for Your powerful support. You know where we are in history's schedule, how near chaos and catastrophe or remedy and resolution.

Grant to Your servants in the Senate grace to acknowledge Your infinite wisdom and power and to accept Your divine intervention in and through them as they struggle with unprecedented cosmic issues. Lead them to consensus in which all the power and wisdom of 100 Senators is joined. Save us from irreparable fragmentation that vitiates the potential of this powerful institution.

In His name who possesses all power in heaven and on Earth. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, August 5, 1992.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HARRIS WOFFORD, a Senator from the State of Pennsylvania, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. WOFFORD thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Without objection, the time for the two leaders will be reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 9:30 a.m., with Senators permitted to speak therein for up to 5 minutes each.

The Senator from Michigan is recognized to speak for up to 15 minutes.

Mr. LEVIN. I thank the Chair.

(The remarks of Mr. LEVIN pertaining to the introduction of S. 3131 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. LEVIN. I thank the Chair, and I yield the floor.

Mr. MOYNIHAN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from New York is recognized to speak up to 5 minutes.

VIOLATIONS OF LAW IN THE BALKANS

Mr. MOYNIHAN. Mr. President, I rise, as I cannot doubt many Senators will do today, have done, and will do in the future, to speak to the horror that the world witnesses—at a distance but even so—in the Balkans, in what was Yugoslavia, in what is the former province of Bosnia.

This morning's press recounts the grievous wounding of a grandmother at a funeral for two grandchildren suddenly exposed to mortar fire, savagery, the possibility of death camps, the retaliation back and forth.

Yesterday a Serb reported his satisfaction of having cut the throats of three Turks, as he put it, in response to having seen Serbs tortured, dead. A new outbreak of the kind of ethnic war, nationalist war, which was with us through so much of the late 19th century and, again, wars which are almost primordial. To have one Yugoslav speak of another as a Turk takes us back five centuries.

And, indeed, we have gone back in time and yet, in some important ways, we have moved forward into a future which will be much more like Bosnia than the artificial stability of the cold war.

What I would like to suggest, Mr. President, is that at this moment some of the finest products of American diplomacy are also under siege in Bosnia. Every Serbian shell that rips through an apartment wall in Sarajevo or lands in a cemetery while a burial is taking place rends the fabric of the U.N. Charter, the Geneva Conventions of 1949, and the Nuremberg norms against aggressive war and crimes against humanity; a collection of legal norms which the United States more than any other nation, the United States with Britain in particular, worked to stitch together following the Second World War and the atrocities that had accompanied it, determined to see that it never should happen again.

Our Nation in those days was served by men with powerful principles—Roosevelt, Truman, Marshall. And they labored to create effective tools to make good on the pledges we were making.

When we dedicated ourselves to defeat fascism, we simultaneously began the effort to create the framework for a new legal order. We helped craft—we wrote—the U.N. Charter, again with the British, which outlawed force to resolve international conflict. We drafted the Fourth Geneva Convention making abuses against civilians during time of war crimes, individual crimes. There had not been any such thing. Only states had been subject to international law. Now individuals became such.

Schooled by the failures of the League of Nations and the Kellogg-Briand Peace Pact, which our Secretary of State Kellogg helped draft, American diplomats insisted upon practical structures to enforce these norms. A new legal order with more means of enforcement emerged—chapter VII of the U.N. Charter with its orderly, methodical procedures to deal with threats to and breaches of the peace.

The savagery erupting in the Balkans represents the truest test of whether these efforts were in vain. For decades the efficacy of the new legal order was uncertain; its potential obscured by the fog of the cold war. The results were disappointing. The pledge to prevent future atrocities rang hollow in the killing fields of Cambodia and the decimated countryside of East Timor.

But, with the end of the cold war, the Security Council began to function as the drafters of the Charter had envisioned. Acting pursuant to article 39 of chapter VII the Council issued a binding order directing Iraq to withdraw from Kuwait. When Iraq refused, the Council imposed economic sanctions under article 41. Finally, the Council authorized the use of force pursuant to article 42. The efforts of American diplomacy and the handicraft of American, French, British, Chinese, Indian and, yes, Soviet negotiators, among others, were vindicated. Aggression in the gulf was repelled, and repelled in a manner which virtually the whole community of nations considered legitimate.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

An extraordinarily violent clash of states—which at any prior point in recorded history would have been viewed as a simple contest of brute force—became a matter of law.

Now the conflict in Bosnia confronts the Security Council with a test at once more severe and more relevant to the decades to come. As Martin Peretz has said, self-determination is imperialism's revenge. Ethnic conflict and nationalism are raging around the globe. They destroyed Yuogoslavia and are now tearing apart Bosnia, ripping to shreds any semblance of respect for the carefully constructed legal norms which protect civilians during wartime.

For months we have read chilling accounts from the former Yugoslav Republics. Now, beginning with a Newsday report entitled "Death Camps," we are getting a look at life in Serbian detention centers. The goal, "Greater Serbia." The obscene mechanism, "ethnic cleansing." Forces directed by Serbian strongman Slobodan Milosevic are literally herding tens of thousands of Croatian and Muslim refugees into camps where some are reportedly beaten, others starved, tortured and killed. A U.N. representative has concluded that creating a refugee crisis is a deliberate Serbian policy. If not genocide, then at least horrible echoes of the death camps, the sealed boxcars, the search for a "final solution."

Mr. President, no outside observers have been permitted visits to verify these accounts, which is, in itself, a violation of international norms. But reporters on the scene find them credible.

No party to the conflict is blameless. Abuse begets abuse, and the International Committee of the Red Cross has accused all sides of violations of humanitarian law and basic human rights. The violence is horrific. The president of the Red Cross, Cornelio Sommaruga, reported at a U.N. conference in Geneva last week that—

> [w]hole populations are being terrorized, minorities intimidated and harassed, civilians interned on a massive scale, hostages taken and tortured. Deportation and summary executions are rife.

Mr. President, with the end of the cold war we are now poised to learn whether we have made any advance over the impotence of the League of Nations or whether the hopes of mankind are still held in thrall to the age old rule of "might makes right." In the 1930's it became fashionable to dismiss international law as irrelevant—as little more than, to borrow again the phrase of John Norton Moore, "a system of negative restraint" which only constrained those states naive enough to voluntarily comply. Fifty million dead later we had learned that perhaps it was important after all.

The outcome is unclear. The Security Council acted to protect the Kurds in northern Iraq. It has imposed economic sanctions on Serbia. But more needs to be done.

We should consider that more than Sarajevo is under assault. The rule of law and the authority of the Security Council are also under siege. If the international community fails to act to bring this slaughter to an end it will invite and will swiftly be visited by the anarchy. The charter offers to tools to avoid that result.

Mr. President, the chapter VII provisions are still there. I would call particular attention to the provision in Article 42 which speaks of the full range of military options.

It says, "Should the Security Council consider that measures provided for in article 41"—which concern economic sanctions—"would be inadequate, or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockades, and other operations by air, sea or land forces of the Members of the United Nations."

Mr. President, my purpose in rising this morning, having served as our representative at the United Nations and having served as president of the Security Council, is to point to that word "demonstrations."

It is not an idle phrase in a long speech. It is a precise term in a concise article 42. Article 41 talks of economic sanctions. Next we come to an intermediate position between the force of economic sanctions, which is real, and the full force of all-out war, which is very real. That intermediate provision: demonstrations. Demonstrate of what can come next, which demonstrate the conviction that what is going on is illegal, as it is under the Geneva Conventions, which make individuals responsible as well as governments.

We have that authority in the Charter. We have never considered this particular term. We have always lapsed into doing nothing, having an embargo or, alternatively launching an all-out war.

The term "demonstrations," is in there for precisely the situations which are somewhat ambiguous, not very clear, not very assessable but where a point can be made. And if the Serbian Government continues what is becoming genocide, ethnic cleansing, concentration camps, these things have to be responded to. That provision is in the Charter.

Mr. President, I thank you for your courtesy. I appreciate the Senate's time.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

EXTENSION OF MORNING BUSINESS

Mr. BAUCUS. Mr. President, I ask unanimous consent that morning business be extended until 9:40.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TAXATION OF FOREIGN CORPORATIONS

Mr. BAUCUS. Mr. President, I would like to discuss an issue today which deserves ongoing attention from the Congress, and that is the probability that foreign corporations operating in the United States are avoiding or evading U.S. taxes by manipulating international transactions.

Even a cursory glance at the numbers gives cause for alarm. Total assets under foreign control have risen dramatically from $841 billion in 1986 to $1.4 trillion in 1989. And total sales made by foreign-controlled corporations, or FCC's as they are called, grew from $543 billion in 1986 to almost twice that, $967 billion in 1989. And yet the profits for foreign-controlled corporations, that is, foreign corporations doing business in the United States, totaled only $8.3 billion. This means foreign corporations claimed to be considerably less profitable than U.S. firms.

Of course, a corporation's tax bills are calculated as a percentage of their net income, which means that a corporation which manages to manipulate its income, income reports and declare lower profits is able to reduce its tax bill.

Now, this is not as hard as it might sound. That is because when a multinational corporation transfers a good or a service between two divisions operating in different countries, it sets the price at which the exchange takes place.

As international tax laws are currently structured, that price is supposed to be one that would have been accepted in an arm's length transaction between two unrelated parties. However, that is not always what happens.

Take the case of a foreign company importing televisions into the United States, distributing them, and selling them. A fair wholesale price for each TV might be $100, and the retail price $110, leaving the U.S. division with a gross profit margin of $10 to cover the costs of distribution.

However, the foreign company might set its internal wholesale price; that is, the price its U.S. division pays, at $108, leaving a margin of $2 after the television is sold at the retail level. The U.S. division now declares much lower profits, and consequently pays far less in U.S. taxes. The profit on its business has been shifted out of the country, where the IRS cannot get at it.

In 1988, the most recent year for which data are available right there is the problem. We only have data up through 1988. Foreign controlled corporations consistently reported profits of only about one-third of those of

American firms; that is, those American firms doing business almost exclusively in the United States.

This pattern holds regardless of how profits are calculated. Foreign controlled corporations average return on assets was 0.9 percent, while U.S. companies earned 2.5 percent. Operating profit was 1.4 percent for foreign controlled corporations, and 4.5 percent for U.S. companies. Net income as a fraction of net worth was 3.9 percent for foreign controlled corporations and 9.8 percent for U.S. businesses.

Now, I acknowledge that this is a complicated issue, and that these numbers are not necessarily comprehensive indicators. For example, much recent investment has been in the form of new projects—that is new foreign investments in the United States—starting from scratch, which naturally incur greater costs. Other investment has been through acquisition of existing companies, which involves writing up the book value of the assets involved, thus lowering profitability.

The fact remains, however, that foreign corporations pay very little in U.S. taxes. Suspicion of transfer pricing and tax avoidance is perfectly reasonable under these circumstances.

If foreign controlled corporations are indeed avoiding U.S. taxes, we should be concerned for two reasons. First, Uncle Sam is losing badly needed revenues. Second, American firms end up paying more taxes and bearing greater costs as they bring their products to market. Compared to those foreign companies, American firms lose money, they lose contracts, and American workers lose their jobs.

Now, the only way to conclusively demonstrate that transfer pricing has taken place is to do exhaustive analysis of the facts of each individual case. This is the IRS's job, but that does not mean we in the Congress must wash our hands of the problem.

Instead, we need to ensure that the IRS has the tools necessary to prevent such tax avoidance. It must have access to the resources needed to audit FCC's, and to prosecute the cases that result. Moreover, it must have the authority to requisition the information it needs from foreign corporations.

Some of these issues were addressed in the 1990 Budget Act and other recent legislation. However, due to a lag in the preparation of tax data, we cannot yet assess the effectiveness of the measures enacted at that time.

CONCLUSION

U.S. firms compete with foreign multinationals that bear lighter tax burdens as a result of their tax cheating. In an increasingly competitive global economy, this is an unacceptable burden.

We cannot tolerate such tax avoidance. It contributes to our massive Federal deficit, and to the public dissaving that is gradually sapping our economy.

To me, this means that we need to focus our tax enforcement efforts on foreign corporations. The internationalization of the U.S. economy can only accelerate, and we need to be able to deal with the consequences of our links to the rest of the world.

At a later date I will be preparing some more precise actions that we can be taking to help solve this problem.

I thank the Senator from Maine for his patience.

I yield the floor.

Mr. COHEN. Mr. President, I ask unanimous consent that I be allowed to proceed for 5 minutes in addition to whatever time Senator LEVIN yielded to me.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Maine is recognized for 6 minutes.

Mr. COHEN. I thank the Chair.

(The remarks of Mr. COHEN pertaining to the introduction of S. 3131 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

TODAY'S "BOXSCORE" OF THE NATIONAL DEBT

Mr. CRAIG. Mr. President, Senator HELMS is in North Carolina recuperating following heart surgery, and he has asked me to submit for the RECORD each day the Senate is in session what the Senator calls the "Congressional Irresponsibility Boxscore."

The information is provided to me by the staff of Senator HELMS. The Senator from North Carolina instituted this daily report on February 26.

The Federal debt run up by the U.S. Congress stood at $4,010,612,139,513.41, as of the close of business on Friday, July 31, 1992.

On a per capita basis, every man, woman, and child owes $15,614.06—thanks to the big spenders in Congress for the past half century. Paying the interest on this massive debt, averaged out, amounts to $1,127.85 per year for each man, woman, and child in America—or, to look at it another way, for each family of four, the tab—to pay the interest alone—comes to $4,511.40 per year.

DEFENSE SPENDING AND DEFENSE REQUIREMENTS: THE BIG LIE

Mr. MCCAIN. Mr. President, just about a century ago, Mark Twain said that there were three kinds of lies: Lies, damned lies, and statistics. If Mark Twain were alive today, he would add a fourth kind of lie: "Damned lies that use statistics out of context in an election year."

Now this fourth kind of lie is part of the present negative character of American politics. It is normally something to be laughed off or ignored, in the process of focusing on the issues that really matter. Unfortunately, however, there are times when the record has to be corrected because the real facts are too important to ignore.

COMPARING 1992 STRATEGIES TO 1993 BUDGETS

Last year, I gave a series of speeches for the RECORD on strategy. These speeches warned about the need to convert our force posture to one based on a power projection strategy, and to do so as quickly as possible. I also warned that we had to build a new consensus around a lower level of defense spending and use the resulting savings to reduce the deficit and taxes.

I spoke to the Senate on August 2, September 10, 1991, and November 26, 1991. This latter speech included a detailed white paper that I had worked on during much of the fall of 1991, and which I issued in final form in November. It was a complicated paper looking far into the future and focused on both the forces we needed and possible trade-offs we could make to afford them. It also provided illustrative defense spending figures based on the Department of Defense budget for fiscal year 1992.

Mr. President, I am proud of that paper. It made a wide range of recommendations that were included in the fiscal year 1993 defense budget that President Bush submitted in February 1992. It called for the termination of the B–2, small ICBM, and SSN–21 *Seawolf*. It called for the President to go beyond START and CFE, and to make broader and faster cuts in strategic and theater nuclear forces, and to accelerate the reduction of our forces in Europe.

It called for reduced funding of the U.S. Army armored system modernization plan, adjustments to slow down expenditure on the modernization of some aspects of naval aviation, and cuts in our overall surface fleet to ensure we could afford to modernize and maintain our carriers.

These are all recommendations that were implemented in some form in the President's fiscal year 1993 defense budget submission, or in President Bush's dramatic new arms control initiatives. While General Powell, Secretary Cheney, and President Bush took these decisions on their own, I must note that they allowed President Bush to cut his proposed defense spending during fiscal year 1993–97 by $56.7 billion in budget authority. He submitted that plan to Congress about 4 months after I issued my paper.

Let me stress that point, President Bush reduced his fiscal 1992–97 defense plan from a total cost of $1,406.8 billion, when he made an estimate as part of his fiscal year 1992 budget submission in February 1991 to $1,350.3 billion as part of the fiscal year 1993 budget submission he submitted in February 1992.

The defense budget and program that President Bush submitted early this

year was not the program that I reviewed in November, 1992. It did not call for the same forces, or the same major programs. It did not call for the same expenditures, and it did not even call for spending in the same dollars. President Bush submitted his new budget in fiscal 1993 dollars, which the comptroller's office of the Department of Defense states are only worth 96.44 percent of fiscal year 1992 dollars.

Now, I cannot be responsible for what others do with my figures or words, or for estimates that I had nothing to do with, but figures are magically appearing in my name as if my November, 1991 paper on strategy had somehow been an analysis of the fiscal 1993 budget. I like to believe that I have some foresight, but I do not have the gift of prophecy, and it should be obvious that what I wrote in November, 1991 does not constitute an analysis of the very different program President Bush submitted 4 months later.

Further, the numbers I did use in my November speech are being quoted out of context, and without conversion into fiscal year 1993 dollars. This totally obscures the fact that I called for detailed increases in defense spending as well as defense cuts. It creates the impression that I have opposed the Bush fiscal year 1993 defense budget and have radical differences with the Bush fiscal 1993–97 defense program.

THE BUSH FISCAL YEAR 1993 DEFENSE BUDGET

Let me begin with the real issue: fiscal year 1993 defense spending. Neither the Congress or the executive branch authorizes or appropriates money for a theoretical and constantly changing future year defense program. The Congress does vote money for fiscal year 1993, and this is how its performance should be judged.

I supported President Bush's proposed level of fiscal year 1993 defense spending when he issued it, and I have supported the President since. More importantly, I invite my colleagues to look at both my November white paper and pages S18258 and S18529 of the November 26, 1991 CONGRESSIONAL RECORD.

Even in examining the maximum possible cuts that I believe could be made in defense spending, I refer to an average cut in real defense spending within the Department of Defense of 6 percent, and a possible budget authorization for fiscal year 1993 of $261 billion in fiscal year 1992 dollars. In fact, President Bush proposed a cut in real spending of 7.1 percent—1.1 percent above the level I recommended. He also proposed $267.6 billion in Department of Defense budget authority. Let me note, that my proposal is equal to $270.6 billion in fiscal year 1993 dollars, or $3 billion more than the figure proposed by the President.

Quite frankly, I believe it is absurd to make exact comparisons between illustrative numbers in a strategy paper and the specifics of a budget issued months later, but it should be clear that I fully support the President.

It should also be clear that I differ sharply with the Democrats who have made major cuts in the fiscal year 1993 defense budget in every committee they control in Congress. While I have been forced to work within the limits imposed by a Democrat majority, I have never endorsed making more rapid cuts in spending or reprogramming resources within the defense budget away from defense.

In contrast, the Democrats have made the following cuts in fiscal year 1993 defense spending:

The budget resolution has cut the President's defense budget request by $4.2 billion in budget authority, and $2.5 billion in outlays.

The House Armed Services Committee has produced a bill that cuts budget authority by $10.5 billion, and outlay by $8.2 billion.

The House Appropriations Committee has cut defense budget authority by $7.9 billion and outlays by $5.1 billion.

The Senate Armed Services Committee has produced a somewhat less drastic set of cuts. It calls for cuts of $7.6 billion in authority and $3.6 billion in outlays. I hope that floor action on our bill and the Senate Appropriations Committee will be equally conservative.

The fact remains, however, that the Democrat majority in Congress has pushed for far lower levels of defense spending than President Bush, and far lower levels than those I advocated last year. The fact also remains that it is the current budget debate, not a debate over the outyears, that is the critical test of public policy.

Even if we ignore the fact that my paper preceeded the President's revised budget submission and fiscal year 1993–97 program, this number simply is not comparable to any of the defense spending date by year that Secretary Cheney issued with his annual statement on the fiscal year 1993 defense budget.

To the extent any of my figures are comparable, they come on page S18529 of the CONGRESSIONAL RECORD for November 26, 1992, where I described the possible Department of Defense spending levels in fiscal year 1992 dollars for fiscal year 1993–97. Let me stress that I then discuss possible defense spending levels, but draw a very different bottom line only four paragraphs later.

If, however, you compare my maximum possible cuts to the Bush budget projections for each year during fiscal year 1993–97, and convert my figures into fiscal year 1993 dollars using the 0.9644 conversion factor used by the comptroller of the Office of the Secretary of Defense, you see that my maximum possible cuts are only $57.7 billion greater than the funding levels proposed by President Bush.

These figures are explained in full detail in a table which I ask unanimous consent to be printed in the RECORD at this point.

McCAIN MAXIMUM POSSIBLE CUTS VERSUS BUSH FISCAL YEAR 1993 DEFENSE BUDGET

[DOD budget authority in fiscal year 1993 in billions of dollars]

	Fiscal years—					
	1993	1994	1995	1996	1997	1993–97
Bush defense budget	267.6	258.0	250.4	241.8	237.5	1,255.3
McCain maximum cuts	270.6	254.0	238.5	224.0	210.5	1,197.6
Difference	+3.0	−4.0	−11.9	−17.8	−27.0	−57.7

Even if one ignores the fact that my figures were written in 1991 as part of a strategic analysis, there is no way in which my estimates of maximum possible cuts can be transformed into a major difference between my program and the Bush program. In fact, $57.7 billion is only 4.6 percent of the total spending President Bush has proposed for fiscal years 1993–95.

DECIDING ON THE RIGHT SPENDING LEVELS

In saying this, I do not mean to say that I agree with every single element of the Bush program over the next 5 years, or do not believe some additional cuts in defense spending may be possible. I do believe that we can cut our forces for NATO more than President Bush has yet proposed, and I believe that we can safely make the additional cuts in nuclear forces that President Bush has proposed since he submitted his fiscal year 1993 defense budget.

I also believe that we need to spend more on power projection forces like strategic airlift and sealift, improve our sea and land based tactical air power, and fund both fully ready and deployable Marine expeditionary forces, and fully ready and deployable U.S. Army contingency forces. We need to make a wide range of detailed tradeoffs between our existing forces and programs and those we need for a post-cold war power projection strategy. This is why I have emphasized the need to make adjustments in strategy and forces, rather than focus on some single arbitrary figure in dollars.

At the same time, I do still believe that the key theme I raised in my strategy statement of November 26, 1991 is correct. The bottom line conclusion regarding future defense spending that I proposed focused on very different numbers from maximum possible savings. It is clearly stated on page S18529 of the CONGRESSIONAL RECORD as to the conclusion to my discussion of possible funding levels.

It states that:

The best way of obtaining a peace dividend is not to cut defense to the point where we could be forced into crash efforts to rebuild our forces in an emergency—to repeat the 'boom and bust' cycle in defense spending that has characterized so much of U.S. history. It is rather to establish a stable level of defense spending that provides the resources

that are needed, but steadily reduces defense spending as a share of total federal spending and our gross national product as our economy expands.

To put this issue in perspective, defense spending as a percent of federal spending has already dropped from a post-war high of 57%, and a high of 27% during the Reagan Administration, to around 20%. Such cuts would reduce defense spending to around 15–16% of the federal budget by FY1996–FY1997. Similarly, defense spending has dropped from a post-war high of 11.9%, and 6.3% during the Reagan Administration, to about 4.7% of the GNP today.

The proposed cuts would allow defense spending to drop to as low as 3% of the GNP by the mid to late 1990s. Capping defense at these levels of our federal budget and GNP would still provide around $215 billion to $240 billion in constant FY1992 dollars, but would shrink the burden defense places on the American taxpayer to a small fraction of our total economic activity. At the same time, it would allow us to deter or halt the kind of aggression or conflict that—without American military action—would force us into massive new military expenditures and possibly into another major war.

Let me note that four months after I wrote these words, President Bush proposed a level of fiscal year 1997 defense spending for fiscal year 1997 that would cut defense spending to 16.3 percent of all Federal spending and 3.4 percent of the GNP. Further, the levels of defense spending that I propose as the floor for defense spending range from $223 billion to $249 billion when they are converted to constant fiscal year 1993 dollars. This compares with President Bush's proposed spending for fiscal year 1997 of $237.5 billion.

The key point behind my remarks is still that we need to base future defense spending on a portion of our GNP and Federal budget that both provides sufficient forces and represents an acceptable burden on our economy. This is why, on the same day I presented my white paper to the Senate, I joined Senator GRAMM and Senator STEVENS in introducing S. 2093, the Ronald Reagan Peace Dividend Investment Act. This legislation would require all future savings in defense to be used to either reduce the Federal deficit or taxes.

THE ISSUE OF TAXES AND DEFICIT

Mr. President, I said at the start of my remarks that using statistics out of context can be a new kind of lie. I think the RECORD makes this all too clear. The arguments I have advanced are not so complex or sophisticated that anyone who actually read them can fail to understand them. No one who shows any respect for the truth can fail to understand the fact that numbers must be kept in context, must be made comparable, and must be related to the analysis involved.

In today's Washington, I have to assume that while figures do not lie, liars will continue to figure. The fact is, however, that it takes a liar to twist the RECORD out of context, and the resulting lie has nothing to do with either my positions or the real debate over defense spending.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

DEPARTMENT OF INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1993

The ACTING PRESIDENT pro tempore. The Senate will now resume consideration of H.R. 5503, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 5503) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1993, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Reid amendment No. 2868 (to committee amendment beginning on page 101, lines 11–15), to make improvements in mining laws.

Mr. REID addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized.

AMENDMENT NO. 2868

Mr. REID. Mr. President, the Senate has a long tradition of functioning based on the admonition of the great Jewish philosopher, Maimonides, who said: "Keep firmly your word."

On September 13 of last year, 1991, in this Chamber, I made a commitment, publicly and privately, that I would work to make substantive changes in the 1872 mining law. The amendment now before this body makes substantive changes in the 1872 mining law. The ancient advice of Maimonides has been followed.

I have kept my word.

Mr. President, before describing these substantive changes in this amendment, let us take a look at mining. I grew up in a small town in the southern tip of Nevada called Searchlight. I was born there. My father was a hard-rock miner. He worked very hard, much of the time by himself underground. Many times, as a little boy, and as I grew up, as a bigger boy and a teenager, I was with him in those mines. In those days, the days of my father, the days of the hard-rock miner, as envisioned in movies and things that we see, everything revolved around a vein, a gold vein.

They were always after the vein. Sometimes the veins were small, and they could work those if the ore was high grade. Sometimes the vein was wide, and they were able to work that, even though it was relatively low grade. They would follow this vein all through the bowels of the Earth. They would do it in a number of different ways. They would sink a shaft. That shaft would either be a vertical or an inclined shaft.

After they got down to where they found a vein, they would run what we called a drift or a crosscut, what is referred to in the books as an adit.

They would try to find the wealth of the Earth by following this vein. They were also able, on some occasions—not often—to do it with a tunnel into the side of a hill or mountain.

This work was labor intensive. I thought all fathers worked like my dad, Mr. President: Hard, with bad air lots of times. I thought that all fathers woke up in the middle of the night coughing. I have come to learn, that is not true. In the days of my father, they did not do a lot of work with equipment, with machinery. There was a hoist up on top of the ground with usually a hoist man, one person.

Underground, they had little equipment—a jackhammer, and that is about it. Everything was done by hand. It was labor intensive and very dangerous. Health conditions were severe.

On July 4 of this year, I rode in the little parade they have in Searchlight, and it is small. It is joked that there are more people in the parade than watch it. In southern Nevada, it is a tradition; a lot of people who hold political office go to that small town called Searchlight for the Fourth of July parade.

Frankly, Mr. President, people go to it for one reason. It is late in the afternoon, before the fireworks, and there is not much going on. The big parade in Boulder City has already taken place. But it has become kind of a traditional thing. Well, this Fourth of July, I decided to stay in Searchlight. I have a home there.

My wife and I went up to a little place called the Searchlight Nugget, a little cafe-restaurant. As I walked in, I saw a childhood friend, one whom I had not seen in years and years. He and I have a very close relationship, even though we have little personal contact anymore. The reason we do, you see, is that his father was working in a mine with my dad when a rock fell on his head and killed him. My dad carried him out of the mine.

I had a nice visit with my friend, Everett "Chig" Hudgens. We talked about old times. But, you know, the legacy left by people like my father and Bill Hudgens, who was killed in the mine, and thousands of others, is almost gone. Very few people mine like my dad did. Miners like my father and Bill Hudgens—people like that—have become almost extinct. People no longer pan for gold.

I can remember one of the things I knew how to do, is pan for gold. You dump rock in this little metal thing and grind it up real fine, put it in a pan of water, and see if you can see any color in it. "Is there any color in it?" Those were the words. If there was,

that was gold, and that meant the rock had a possibility of containing gold. Well, that is not the way it is anymore in mining for gold. Mining for gold is now no longer connected with a vein.

You can no longer pan for the gold that these people take out of the ground, because you cannot see it. It is microscopic. They mine for gold. Out of a ton of gold, they get a very small amount. Or out of a ton of ore, they get a very small amount of gold. It is microscopic, called disseminated. To find this, it is no longer like it use to be, with prospectors going looking for it, although there are still a few. What happens now is you need hydrologists, engineers, geologists, chemists. It has become very scientific. These pit operations mine low-grade ore; very, very low-grade ore. It is high-tech.

Mr. President, there are conveyor belts, 160-ton trucks, and pieces of equipment we used to call "steam shovels" when we are growing up. But now these huge shovels weigh over 1 million pounds. They are huge, these large crushers, very technically and efficiently built, and are run by computers.

Computers are involved in almost everything in mining. It has become very high tech.

And even though large amounts of ore are moved today compared to the times of the Comstock, the operations are much better. There is no comparison between the operations today and the days of old.

For example, in the Carson River, which is below the Comstock, below Virginia City, for years and years during the days of the Comstock, which basically was in the last part of the last century and the early part of this century, the process they milled was by using some cyanide, but mostly mercury. This mercury would run into the Carson River and made this river a potential Superfund site. The Environmental Protection Agency is now doing a reconnaissance to determine who is responsible. We know that thousands of tons of mercury are in that river. You cannot eat the fish. There are signs posted, "Do not eat the fish."

In Nevada today—and we will talk about that later—there are reclamation projects to stop things like that. Those kinds of things do not happen anymore.

Mr. President, let us take one mine, a mine called American Barrick located in Eureka, NV. What kind of equipment do you use in these modern-day operations compared to the days around Searchlight when people went down by themselves and they used the No. 5 scoop shovel, a jackhammer, and some dynamite. That was about as high tech as they got. At American Barrick, they have something called an oxygen plant that costs $150 million. They have on that property, on that mine, three shovels. Each one of those shovels cost $2.8 million. So, for those three shovels on that property it is almost $9 million. Those shovels are large; they can move about 23 yards.

They also have on that same property four shovels that cost $6.3 million each. They are bigger and more expensive. They have haul trucks, 46 in number. Each truck, Mr. President, cost $1.4 million. They will haul a lot, 190 tons. They have at this one mine $200 million invested in mobile equipment, trucks, graders, greasers. They have eight D–10 bulldozers, $1.3 million each; rubber-tired bulldozers, eight of those, $800,000 each. They have on this property, 12 drills, $700,000 each. They have an autoclave, which is a kind of crusher, that cost $84 million. For tires alone on this property, 1 month's bill for tires is half a million, $500,000.

The reason I mention this equipment is this equipment is made someplace, built someplace. They do not build it in Nevada. Front-end loaders, Peoria, IL. Shovels, South Milwaukee, WI. Remember, these are very, very expensive. They are dozers from Illinois, $1.3 million each. One operation uses 1.5 million dollars' worth of fuel each month. Drills costing $700,000 or $800,000 each are manufactured in Texas. Supplies come from San Francisco, Salt Lake, and Denver.

So there are lots and lots of jobs related directly to mining. There are also many jobs not related to mining, and we should talk about some of them today. These ancillary services are in places as far removed from these mines as Illinois, Texas, Wisconsin, and, of course, closer to home, places like California, Colorado, and Utah. In Nevada, there are 15,000 jobs, but in the United States there are at least 150,000 mining jobs. It is estimated that the number of indirect jobs associated with mining are 750,000.

The reason that we need to talk about the importance of gold is that we are, Mr. President, a net exporter of gold. This is rare. This has only developed during the last couple of years. Prior to that time we imported gold. We had to import gold. We needed it for many different things. We have a favorable balance of payments as it relates to gold. Is that not good news? We export more gold than we import.

Mr. President, the uses of gold are critical for lots of things. We are going to talk about some of those now.

Most people, when they think of gold, think of fancy jewelry. Of course, that is one of the reasons for gold, but it is also vital in high technology. Your bank computer prints a decimal point in the wrong place; phone calls are blocked by static; a missile fires ahead of schedule. These are things that we envision negatively. These are some of the problems that are prevented today in our country and around the world by the use of gold in high technology.

In American electronics technology, more gold is used every day. Every day they are finding new uses. Why? Because it works better than anything else. There is not a close second. We do not have the most recent figures but, for example, in 1988, the United States electronics industry used 1.4 million troy ounces of gold, or 21 percent of the gold produced in the United States at that time. That is a 6-percent increase over what was used in 1987, and it is going up and has gone up since then.

Why gold? Gold is the choice of the electronics industry because it has several exceptional properties which are not matched by other metals. These special properties include gold's resistance to tarnish and corrosion, the ease with which it can be worked, and the fact that it is an exceptionally good conductor of electricity and the transfer of heat. Gold does not corrode. This is one of the most important properties because of the appearance and technical performance of gold.

Gold alloys and gold coatings usually remain unaltered by time, and for our computer age it is perfect. As one electronics engineer put it, "When signal purity, conductivity, and reliability are required, gold is absolutely essential." Because of these properties, more than 760,000 miles of hair-thin gold was used in 1988 to connect and ensure reliable transmittal of signals among the millions of microchips that are the heart of computers and control devices for automobiles, aircraft, ships, and electrical supplies.

In addition to its immunity to oxidation, its inherent ability to conduct electricity, gold readily alloys with common metals. These alloys are used in many applications, including the creation of clean, superstrong joints and engine components, jet engine components, and gold coats which are ideal in bearings in a highly corrosive environment.

In America, gold really does work for us. Why? Over 95 percent of all electric connections used for computers, integrated circuit heads, are gold coated for perfect signal transmission. Gold is not used because it is plentiful; it is used in these instances because it works better than anything else. If industry could find a cheaper way to do it, they would do it, but gold works. The new Pacific fiber optic cable uses gold circuitry and connected works unattended. It is at the bottom of the sea to ensure long-time reliable performance.

We saw, during the Kuwait situation, these people going out, standing next to these infernos. How were they able to do it? Their faces were protected by heat reflective transparent 24-carat gold film covering in the face shield.

Gold chip rings transfer power to gyroscopes, the heart of navigation and guidance systems of aircraft, submarines, and military satellites. Catalysts are used to make 2.5 billion pounds of vinyl used to make packages

used in sanitary packing of meats and vegetables. Alloys with gold are used in heat exchangers and nuclear powerplants to prevent cracking of metal and, as a consequent, prevent leaking. Gold films conduct local current for touch panels and memory switches. Gold is cost-effective because you only need tiny amounts to accomplish these seemingly miraculous things, Mr. President.

But in addition to these high-technology things we have talked about, we will get into some more and more difficult high technology because we would not be able to explore space and defend America without gold. We could not have launched our successful space programs nor could we have created its high-tech Armed Forces. Gold is recognized as the critical metal for the microelectronic revolution, which is the very foundation of today's space and military programs.

The complex calculations that are needed to establish and to design space vehicles, their trajectories, orbits, reentry instructions from ground stations as well as the precise assimulation and transmittal of data collected by them at great expense, are all made feasible and reliable by millions of microcircuits built only with gold. These hair-thin wires connect the microcircuits to tiny gold contacts which, in turn, connect these extraordinarily complex devices to the outside world.

Way back in 1974, when the United States launched its first communication satellite, we, with the aid of the gold-plated antenna, covered all 50 States and simultaneously carried messages over 14,000 two-way voice circuits. Gold is used on satellite antennas because it has electrical conductivity that is excellent at radio frequencies. It will not corrode, its thermal properties help maintain a constant antenna temperature in the satellite. They have excellent contained-on-board computer memory systems and other types of chips that are covered with gold to block intense solar x rays and cosmic radiations from destroying the functions of communications satellites. Again, gold is used because it works better than anything else.

Also, gold's superior electrical conductivity and its oxidation-free surfaces make it ideal for sliding contacts wherever satellites must spin and the solar cells remain oriented to the Sun.

For the space station, gold sliding contacts handling 200,000 watts are now being planned. In addition, gold is without peer for reflecting away heat. This was illustrated when United States' astronauts went out in spacecrafts and performed missions in space, dressed in spacesuits featuring gold-coated visors, as were the firemen in Kuwait. This permitted the spacewalkers to see clearly while gold reflected away harmful solar heat and radiation.

Heat-resistant gold surfaces protect Air Force One, the new plane that was built and recently given to our chief executive. It is coated to stop the heat of heat-seeking missiles.

And just 2 ounces of gold has prevented the premature failure of the 5-year-old, $40 million greenhouse effect satellite by reflecting away damaging solar heat and radiation.

High-temperature gold brazing is essential in space shuttle engine cooling systems which keep the engine exhaust, which can reach temperatures of 6,000 degrees Fahrenheit, away from the engine housing, which has a melting point of 2,500 degrees Fahrenheit.

All of the components of the Hubble Space telescope electronic camera are coated with gold.

Gold coating of the impeller prevents hydrogen from developing in the fuel-pumping system of the space shuttle, which could destroy it.

In defense, of course, there are multiple uses for gold that were made apparent especially during Desert Storm, when high-tech aircraft, especially the Stealth, had to operate.

Lastly, we are talking about uses for gold. Every day America uses gold. It is used in microcircuits. When we have a digital alarm clock that goes off, we are using gold. When you eat your breakfast, it is hard to realize that gold is involved in that, whether your looking at a TV set, or whether you are watching one of your cable channels. And after watching TV for the morning news you can pick up your telephone, pull out the phone jack and plug it in another jack from the bedroom to the breakfast room. And all the standard telephone jacks in common use today are gold-coated to assure you the convenience of moving your telephone from one jack to another.

But why gold? We have established that it does not corrode, that it does not oxidize, and that it is reliable. That is what gold is all about.

Long-term performance in telephone jacks, television sets, clocks. When you start your car, you now can use gold-tipped spark plugs. Why? Because they last much longer, and they will operate in extremes of temperature, either hot or cold.

The fuel efficiency of your car will depend on a microelectronic system that uses gold contacts. These leads, in the highly corrosive and high temperatures environment of a modern engine is a place where other metals will melt.

And if you are using one of the new tiny 12.3-ounce cellular telephones—most of us have used those at one time or another—gold connectors and contacts help us have better performance.

When we go to work in this building, this vast Capitol, there are all kinds of Xerox machines, and every one of those copy images on paper with gold-coated mirrors. Telephone jacks on switchboards use gold to guarantee clear communications. Computer circuits are gold coated to assure continued reliability.

The building's elevators—and probably not some of the ones in the legislative branch that we are trying to update and make more modern, but on the new elevators that are more reliable and are certainly safer—they have gold microcircuits.

The instruments used to control the operation of chemical process industries, petroleum refineries, and power supply plants, rely on gold's ability to carry electronic signals accurately even under the severest environmental conditions.

(Mr. BRYAN assumed the chair.)

Mr. REID. Mr. President, gold is something that is used for more than a watch or a bracelet.

Today, we are here because last year, in September, there was an amendment offered to establish a moratorium on the issuing of mining patents. As a result of that debate, as I indicated in my opening statement, I said that I would work with the industry. I made a commitment to those that voted with me, those that voted against me, that I would do what I could to come up with substantive changes in the laws that relate to patents in the United States, and I have done that.

But, first of all, for those that were not aware of the debate last time, and just to refresh those who may have heard parts of it, understand that the patent that someone applies for, costs almost $100,000 to bring it to the point where the Government issues a patent. The average is about $100,000. This is for engineers, mineral surveyors, and all the things that the Forest Service and the Bureau of Land Management mandate before they will consider issuing a patent.

And remember, Mr. President, many, many patents are applied for but are not granted because they cannot show mineral value.

You would think, with the negative statements about mineral patents, that thousands and thousands of these patents are issued every year, this great calamity facing our country, giving away Federal lands.

By the way, in the State of Nevada, patents have been in existence there since we became a State, basically, and still 87 percent of the State is federally owned.

Since 1781, the start-off date for this country, in the United States, 288 million acres of land used for agriculture purposes have gone from the private to the public sector; 288 million acres of land.

To give you some perspective how big that is, the State of Nevada, the seventh-largest State in the Union, has 74 million acres.

Agriculture use, through different types of land grants, similar to the

type of patent we are talking about today, has moved almost 300 million acres to private hands from public hands. Railroads alone, have been given 94 million acres.

Mineral patents, this horribly abusive thing that people would lead you to believe is ruining the country—has moved 3 million acres. Since we have become a country only 3 million acres. That includes every place in the United States. The huge State of New Mexico, the huge State of Arizona, the huge States of Utah, Idaho, California, Nevada, Wyoming, Montana only 3 million acres.

Three million acres would not even make a decent size county in Nevada. Three million acres have gone to mineral patents compared to 300 million agriculture patents, and 94 million to the railroads.

We hear so much about abuses, let me relate some abuses that took place last year. Alaska did not have a single patent issued; Arizona only three; California, four. Colorado, the mining State that is famous for terrarite and all these things only one. Idaho, with the Coeur d'Alene, that famous mining State, only one last year. Montana to where I have traveled with Senator BAUCUS on a couple of occasions, only one last year; one. Then the abuses get rampant in New Mexico where they issued none. And Nevada, which produces most of the gold in the United States, three, three patents. This horribly abusive system with only three patents. Oregon had three and Utah had three.

Add them up, it is less than 20.

My friend from Arkansas, I would think he would agree that one of the real problems we have had in the last 20 years is that we as a country have not developed a long-range energy policy. We really have not. And we should. And I recognize that. We would be better off if we as a country did not import over 50 percent of our oil. We would be better off as a country if we developed more clean coal technology. We have vast resources in this country for coal, and there are those who have worked for decades in this body to make better use of coal in our country.

Slowly but surely, because we have not had a lot of support, things are happening. For example, in Nevada there is a facility at the Tracy plant, between Reno and Fernley, that is developing a clean coal system for its new generating facility. That is good. I wish we had more long-range energy policy. I wish I could place all the blame for the fact that we have not had a long-range energy policy on the Republican administrations we have these last years, but I cannot. We as a Congress are as much to blame. We need a long-range energy policy. We do not have one.

But here today I am not going to talk about our failures in not developing a long-range energy policy. What I want to talk about today is our failure to develop a long-range mineral policy because, you see, minerals are essential. These things I have talked about relating to gold are not a trace or something that you do not need. These are products using thousands of ounces, millions of ounces of gold each year, that are required in our essential industries. Mr. President, there are things other than gold that we should be concerned about.

Copper, of course. My friends from New Mexico and Arizona are going to talk, I am sure, about how important copper is.

But there are other things. We have done nothing about our lack of chromium. We are only about 20 percent self-reliant. We have to import 80 percent of our chromium.

Cobalt. We import 95 percent of cobalt from very unstable countries in Africa. Chromium is essential for the construction of automobiles, aircraft, insulation of high temperature furnaces and many other industrial applications. Cobalt is crucial in the forging of alloys, the building of tool bits, and the refining of oil. Manganese is crucial in the alloy process of certain high-strength steels used in all kinds of industrial processes including weapons systems that are crucial to the Nation's defense. One hundred percent of our manganese is imported, mostly from South Africa.

Platinum group metals are essential in petroleum refining, chemical processing, automobile exhaust treatment. They are used in telecommunications equipment, medical and dental equipment. Ninety-five percent is imported from South Africa.

Let us talk about platinum. Let us talk about the State of Montana. Because out of those essential minerals I have talked about, this country has developed in the great State of Montana a platinum-palladium mine. Does everyone hear that? We have developed a platinum and palladium mine. Ten years ago this was unheard of. We are not going to have to be totally dependent on the unstable Government of South Africa, or after the revolution that took place in the Soviet Union, the State of the former Soviet Union. That is where we imported all of our platinum and palladium before.

People in this country, who were willing to take a chance, have received a mineral patent on the property in Montana and invested over $100 million to develop this mine in the small State of Montana. They are losing a congressional Member this year.

In the small State of Montana this is a large employer—400 men and women work in the Stillwater Mine. They have an annual payroll approaching $20 million in a depressed area. They spend millions in State and local taxes. They purchase over $25 million in goods and services from that small State every year. They have given impact grants to local government—not given, they were required: schools, roads, sewer systems, water; reclamation is excellent. This project did not make any money last year. We have heard statements made on this Senate floor about the great ripoff of the Stillwater Mine, how they are making all this money at the expense of the taxpayers.

Remember, to get this patent issued costs a lot of money, to get the mine started costs a lot of money. They pay a lot of local taxes. They have a lot of problems. They had receipts this year of $50 million but they did not make any money—no profit. At the rate of what they are doing, and the statements made on this floor, it would take 600 years for them to make what my friend, the senior Senator from the State of Arkansas, said they would amass—without $1 of profit.

On June 29 of this year in a communication from a man I have never met, never talked to, by the name of J.B. Mancuso who is with the minerals unit of the Pittsburgh and Midway Coal Mining Co., the company that operates there, with their home office in Colorado, he said: "If additional costs are imposed on the Stillwater operation, all"—and he underlined "all"—"of the world's platinum and palladium will likely come from South Africa and what was the Soviet Union."

So let us remember what we are doing here. We are striking at the heart of operations that are important to this country and to States like Montana, Arizona, Nevada and, as I have already indicated, Mr. President, not only important where the minerals are extracted but places where they make the drills, like in Texas at $700,000 to $800,000 a cut; where they make some of these big dozers in places like Peoria, IL; places where they make some of these large trucks like in South Milwaukee, WI.

So this legislation, Mr. President, is not legislation that is only important and has an impact on Western States. It has an impact all over this country because of the manufacturing that takes place.

This bill that is now before the Senate, the Interior appropriations bill, is a bill that I worked hard on. I serve, and am very proud of the fact, under the President pro tempore of the Senate, the senior Senator from West Virginia, and as all the Senate knows, he runs a pretty tight committee. In the mark which we received, there was a $100 holding fee.

What is the $100 holding fee? A $100 holding fee does not apply to patented claims but unpatented claims. On these unpatented claims, Mr. President, situations develop where a person, since 1872, would go into a place like Nevada, Arizona, California and locate a claim, not a patented claim, they can go out and locate a claim. And for many,

many decades, what they have done each year to maintain that claim is they do $100 worth of what is called assessment work.

The committee, Senator BYRD, and the Interior Committee on the House side felt that that was old fashioned and that instead of doing $100 worth of assessment work, there should be $100 paid every year to hold that claim, and that is where the term came, "holding fee." That is in the bill.

I complained about it in committee and recognized very quickly that we could do nothing to take that out of the bill. I made a statement before the subcommittee and the full committee, but the fee is in the bill. That holding fee will bring to this country about $50 million. This is the will of the chairman of the committee and the majority of the people on that committee. I do not like it because I think it has a serious impact on prospectors, but it is in the bill and I acknowledge that.

In Nevada, there are 400,000 claims, approximately, like this and these claims now will be assessed with a $100 holding fee or they will go back to the public, public land. It is in the bill. Everyone should understand that, that it is in the bill.

What specifically, Mr. President, does my amendment that is now pending before this body do?

My amendment establishes that when a patent is applied for and, in effect, has been proven up that the price for that land will not be as it has been traditionally, $2.50 or $5 an acre, but will be fair market value. The senior Senator from Arkansas has complained about this all the time I have been in the Senate, and even though it costs $100,000 to get a patent—and that was the argument why they got the land so cheaply—even though it cost approximately $100,000 to prove up on a claim, this amendment I have offered will now require someone who is claiming a patent, these 20-odd people I talked about in this country, these 20-odd people will have to pay fair market value for this land. That will take away, I think, an argument that has been on this floor for months, for years. Even though, I repeat, they pay in all kinds of costs and fees, about $100,000, to prove up a claim, this is not only, I think, good from a public policy standpoint, but I think it is also good for public relations.

Mr. President, to prove up on a patent is really not one of the easiest things to do. I talked about the fact that it costs about $100,000 to do it, but I have listed on this visual aid just a few of the steps necessary to obtain a patent. This is a process that does not take a couple of days, a couple of weeks, or a couple of months but we are talking about years, if, in fact, one is fortunate enough to be able to prove up on it.

We have all these steps from the time the operator decides to attempt to obtain a claim patent under general mining line to BLM posting notice of the application, where you pay the purchase price—it is on and on, I have listed these just for purposes of illustration. I am not going to go through each of the steps, Mr. President, but everyone can rest assure it is not an easy process and that is one of the reasons it costs $100,000 to have the patent issued.

So one amendment, as it relates to patents, will have for the first time that the applicant will have to pay fair market value.

Also, one of the things my friend, the senior Senator from Arkansas has talked about and with some basis is that it is not right that you have the patent issued and then you cease mining operations, or maybe never even start mining operations to improve your mineral interests in it.

What do you do? You decide to build, I think some examples were a motel or something on the property. Those examples, even though they were rare and the people who did it were scoundrels and in violation of the law I thought, but as we all know in mining and the business of politics, athletics, whatever it is, one rotten apple can spoil the whole barrel and a few rotten apples in this instance I think has created a bad image. This amendment will say now that when a patent is issued for mining, if that person ever uses the land for any other thing than mining, it reverts back to the Federal Government. That will be the law if this amendment is agreed to.

So we have established two of the things that my friend from Arkansas has talked about: Fair market value and reversionary interests are things that are now in this amendment. These are arguments that my friend can no longer use because they are in this amendment, and I would think that he should support this amendment.

It may not be everything he wants, but certainly it is a step in the right direction.

We have also in this amendment stated that with these patents that are issued there will have to be reclamation. Reclamation has become an accepted part of mining operation in this day and age and, if it has not been accepted, it should be.

I will take just a brief amount of time of my colleagues to talk about a couple of mines in Nevada. There is a mine near Hawthorne, NV, called the Borealis mine that is presently on a multiyear, multimillion-dollar reclamation effort. It has already restored much of an old mine—that mine went back long before this operation started—restored the landscape back to normal, and it will have it back to normal before they are finished. The entire area will be reclaimed. For this, Mr. President, they have received a Governor's award for the most outstanding reclamation in the State of Nevada.

I indicated in my opening statement that my place of birth, Searchlight, NV. Searchlight, NV, is desert. I grew up there. There may have been a tree in town. I cannot remember where it was, if in fact there was one. There was no grass. But as stark as the desert is, it has rare beauty.

Just a few miles from where I was born, 6 or 7 miles up what we call the Nipton Road, there is the largest Joshua forest in the world, the thickest Joshua forest in the world, and located in that beautiful forest is the famous ranch of the cowboy actor Rex Bell and the famous actress Clara Bow, the Walking Box Ranch. When she became ill, that is where they came and that is where she spent a lot of her last years.

Well, just a short distance from Rex Bell's ranch, right over the Nevada border in California, is a new mine called the Viceroy mine. There will be arguments made during this debate that some of these mines are owned by foreign companies. The Viceroy mine is owned by people from Canada, a Canadian company. Why? Well, I talked to the old man in his mideighties who for years and years tried to convince American companies that there was gold here. There were some old mines going back 50, 60 years, 70 years, but he said this was a big find. The only person he could get to invest in this was a man from Canada who liked the idea and he went and raised in America and in Canada millions and millions of dollars.

Mr. President, that mine took about $65 million, a lot of money, $65 million before the first ounce of dirt was taken out that ground. This was done through mineral patents.

Now, the reason I mentioned the Rex Bell and Clara Bow ranch is that Joshua trees will only grow at a certain elevation. Low desert, they do not grow. The elevation they will grow in is around 3,000 to 4,000 feet, approximately. Anything higher than that or lower than that, you do not have them. Well, this mine has Joshua trees. As part of their agreement with the State of California, Viceroy had to agree to put the mine back in its original shape. As a result of that, they have a huge nursery in the middle of the desert. Every tree that they take out they have to replant, and when they finish mining it is to be put back where it was. You can drive out there and see this huge nursery in the middle of the desert. There are the Yucca trees and some Joshua trees.

This mine began to produce gold in February of this year. They have received an award already from the Sierra Club for developing a reclamation plan that has been praised as one of the best ever. Environmentalists have said that Viceroy mine, when they are finished mining, will look just like it did before they began the mine operation. And as part of their agreement they ac-

cepted responsibility of reclaiming some old mines that were already there and have nothing to do with their current operation.

That is why I said, Mr. President, that in modern-day America, in modern-day mining, you do not have the problems you had in the days of my father.

This legislation in the form of this amendment I have offered on behalf of Senators DOMENICI, DECONCINI, BRYAN, and myself will require reclamation. It has been contended that minimal levels of reclamation are not standard within every State in which hard rock mining occurs. While States such as Nevada, have very good reclamation laws, there is no clearly defined floor or baseline standard for State reclamation. My amendment will accomplish this minimum level of environmental standard and still afford States opportunities to maintain primacy in the area of reclamation. This should satisfy the detractors of the mining law who claim that State standards are nonexistent or not stringent enough. In effect, this will act as an incentive to those States that do not have presently a State mining reclamation act to take steps to pass such a law; otherwise, the Federal Government will step in.

As I said earlier, reclamation in many States is already pretty good. So, in effect, what this amendment will do is establish the standard that if a State does not have a reclamation standard, and some States do not, then the Federal Government will step in and take over.

Mr. President, I received—and I was disappointed—yesterday in my office a communication from a man by the name of Jim Lyon, who is from an organization called the Mineral Policy Center. Now, I have never met him, to my knowledge. I am sure he is a very competent lobbyist. I am sure he means well. But I have to submit that either he received some very bad information or that the information he received he simply does not understand. This flier that came to all Senators' offices is entitled "Oppose Reid Amendments in the 1872 Mining Law."

Why? He says this amendment that I am offering will charge fair market value. But this is not enough. He wants to go further. He said this is not good, that this is only for the surface of the mining claim patent. I guess what he is saying, unless you get royalties, do not vote for anything. He also says token Federal reclamation standards.

Now, I consider this, Mr. President, an insult. The State of Nevada—and I have given only two examples—has very high standards of reclamation. I have not talked about the huge game refuge that has been established in northern Nevada with the excess water out of the mines. Now it has become part of the great North American flyway.

Token Federal reclamation standards. These are not token. And a modest annual holding fee—$100 a claim; $50 million for this Government modest? I do not understand these constructive, substantive changes. I could understand why they would write a letter.

So I suggest, Mr. President, that those of my colleagues who have received opposition to these amendments not be mislead. Either this gentleman does not understand, or he has received bad information.

We will hear some debate here today about royalties. My friend, the senior Senator from Arkansas, wants to talk about royalties. I will get this debate started on royalties.

Let us see what we are comparing. We have in America today domestic oil production coming from 607,000 wells. It used to be a lot more than that. The ranking member of the Interior Subcommittee I have heard talk about this at times—my friend, Senator NICKLES—about how domestic production is going down, and we are not doing enough to stimulate domestic production. Even today, with 607,000 wells, I know that is not enough. But we have them.

Natural gas, 258,000 wells; coal, we have 3,000 mines in 27 different States. But listen to these figures, Mr. President: Copper mines, 13 mines in this country produce 95 percent of all the copper in our country; zinc, 25 mines produce 99 percent of all the zinc in America; iron, 10 mines produce 99 percent of the iron in America; gold—you know all these massive giveaways that we have heard about, which are established as fictitious—there are 25 mines in America today that produce almost 80 percent of the gold.

What I am saying, Mr. President, is with the handful of mines—less than 75 mines—producing copper, zinc, iron, and gold, a royalty would run most of them out of business, and they have said so. I read to you the letter on the palladium mine that we have. They just simply could not do it.

The royalties suggested by my friend from Arkansas, would, within the first 6 months after passage, be the equivalent of a 30-percent or greater range in job loss during the first year. Not only these job losses I have established, Mr. President, where they occur in the direct application of mining, but in Peoria, IL; south Milwaukee, WI; and Texas, where they make the drills.

One of the ways that there is to generate jobs in the production of equipment is for these mining companies to continually go out and explore for more. With the royalty, that would stop in a minute.

I think it is educational, Mr. President, to demonstrate that any increase in the Federal Treasury—that is, a motivation in the passage of any proposed bill—is illusory. If the impact of the royalties are as they appear, which would quickly result in a 50-percent reduction in production, the net revenue impact of the royalty would be worthless, wasted, illusory.

I think that it is educational to look at someone who is an expert on this. There is a man, an activist working to reform the general mining law, who has stated—he is an antimining-law activist, but he is not in favor; he is against. He thinks there should be major reforms.

Here is what he says about the royalty.

> The lack of rental or royalty does not mean that the Federal Government receives no return on its minerals. The various tax consequences of mining are too complicated to deal with here. But hardrock mineral developing * * * like any income-producing business, eventually produces direct or indirect payments to Uncle Sam.
>
> The argument for greater revenue return is thus not an overwhelming argument for reforming mining law.

So he is saying reform the mining law, but not the royalties. I have not read all of his stuff, but I bet he would like what is in my amendment. I bet he would like the reversionary clause; I bet he would like the reclamation clause; and I bet he would like the fair-market clause.

My friend, the senior Senator from Arkansas, has stated that there is a mine in Nevada, Newmont Mine, that pays a royalty. If they can pay a royalty there, they can pay a royalty anywhere. Remember, we have established that 25 mines that produce approximately 75 to 80 percent of all the gold in the United States.

My friend is right. Newmont pays 16-percent royalty to some private individuals on a very small portion of their operations in northern Nevada. When the lease and the royalty with the private landowners were negotiated—remember, in Nevada, we only have 13 percent of the land that is privately owned—when they made this deal, they already knew there was an ore body there in existence. It was not necessary for Newmont to perform costly exploration work to find the ore body.

On unpatented mining claims, this is not the case. A company has to put a great deal of money in before an ore body is discovered, much less mining it. We talked about that.

The transaction between Newmont and the private landowners involved a lease on a small portion of an old ranch, called the TS Ranch, involving a royalty fee. The same transaction also involved the sale of all remaining mineral rights on the balance of the ranch, free from any royalty. If they found gold someplace else, they paid no royalty.

The Newmont gold lease and the purchase of the TS Ranch cited by my friend, Senator BUMPERS, were very site-specific commercial transactions, resulting from an arm's length bar-

gaining between two parties—Newmont and the owners of the ranch—which took into account the specific characteristics; that is, the known ore body of the property involved.

The terms of the lease and the royalty portion of the Newmont transaction probably would not be appropriate for any other property in the United States unless its characteristics, unless its makeup, match those of the TS Ranch.

If someone owned a ranch that measured 15 miles by 25 miles, having a known ore body containing 8 million ounces of gold next to an existing operation with an infrastructure in place, then it might well make sense for a second party to agree to pay a royalty on that ore body and obtain the balance of the mineral rights free from royalty.

Of course, it is suggested by my friend from Arkansas that by definition we cannot accommodate site-by-site bargaining. Instead, these proposals establish a blank-term on all public lands, and if this were proposed by the Congress on mineral production of lands, it would have terms that would be too expensive for lands that do not already have discovered ore bodies.

There would not be any exploration on any lands with no new ore bodies. Given a choice between exploring lands offshore with a lesser or no royalty, or exploring on lands carrying a royalty, the company will always choose the less costly option.

Mr. President, none of the world's leading mining nations—Australia, Canada, and South Africa—impose Federal royalties on mining production within some of those jurisdictions, some of the provinces—or we can refer to them as States, as in the United States. Nevada has a tax on mining operations, as in other countries. But these countries, the world's leading mining nations, impose no Federal royalty on mine production.

To promote economic development, some provinces in these areas—that is, these States I referred to within the countries—have exempted mineral-rich areas from taxation. For example, western Australia, the center of Australian gold production—a competitor to us, the United States—exempts gold from a royalty. In South Africa, royalties are not charged by the South African Government for any mining on state lands. In fact, the corporate taxes in mining are currently being reduced. In Canada, the Federal Government does not levy royalties on crown land mining. Some provinces impose a tax on corporate profits, like the State of Nevada does. Australia—we talked about that.

Mr. President, one area that I want to talk about in anticipation of my friend, the senior Senator from Arkansas, is a subsequent amendment that I am going to offer. I have not offered it as part of this amendment because one of the cosponsors felt that it could not be supported.

But I ask my friend to listen to what this amendment would do, which will shortly be offered. Mr. President, it would prevent uncommon varieties from being patented, such as flagstone, building stone, sand, those kinds of things. Under the 1955 act, the ability for those to be patented was established. These uncommon varieties would not, under my amendment, be allowed to be patented. This is not related to the hard rock industry and should be made available to something other than patents.

I think this is an area where I want to join, I hope, my friend from Arkansas to stop where most of the patent fraud is coming from, the so-called sand scam. Very rarely have any of these come with hard rock mining, because it is so difficult to prove up, and it rarely has happened. At a later time, I hope my friend will join me and cosponsor this amendment, which would exempt uncommon varieties from the patent.

I kept my word, as I indicated earlier, Mr. President. I said publicly, and I said privately, that I would work for some substantive changes in the 1872 mining law. These are substantive changes: Right of reversion, fair market value, reclamation. We are going to work on uncommon varieties. We already have a holding fee in the bill. There is more reform in this amendment than in the history of the whole act. That is not bad.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, I call for the regular order.

The PRESIDING OFFICER. The regular order is the first remaining committee amendment, which begins on page 3, line 14, of the bill.

AMENDMENT NO. 2881

Mr. BUMPERS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] proposes an amendment numbered 2881.

Mr. BUMPERS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the first word and insert the following:

"SEC. . (a) None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to accept or process applications for a patent for any mining or mill site claim located under the general mining laws or to issue a patent for any mining or mill site claim located under the general mining laws.

(b) Notwithstanding any other provision of law, any legal action, including an action for declaratory judgment, to challenge the legality of this provision as it applies to patent applications which were filed with the Department of the Interior on or before the date of enactment of this Act and for which all requirements established under sections 2325 and 2326 of the Revised Statutes (30 U.S.C. 29 and 390) for vein or lode claims and sections 2329, 2330, 2331, and 2333 of the Revised Statutes (30 U.S.C. 35, 36 and 37) for placer claims, and section 2337 of the Revised Statutes (30 U.S.C. 42) for mill site claims, as the case may be, were fully complied with by such date, shall be brought within 6 months after the date of enactment of this Act in the United States Claims Court, which shall have exclusive original jurisdiction over any such action. In addition to the current authority of such Court, United States Claims Court is authorized for the purposes of this section only, to provide declaratory relief. Such action shall be barred unless a complaint is filed within the time specified.

(c) If the moratorium as it applies to patent applications referenced in subsection (b) of this section is held to be invalid by a final nonappealable decision, subsection (a) shall not apply to such patent applications and such applications shall be processed in accordance with the laws in existence on the day prior to the date of enactment of this Act."

Mr. REID. Mr. President, parliamentary inquiry. It is my understanding that the amendment that the Senator from Nevada offered, which was a second-degree amendment to a pending—I am sorry, the excepted committee amendment is not amendable.

The PRESIDING OFFICER. The Senator from Nevada is correct. The amendment being offered by the Senator from Arkansas is not an amendment to the amendment of the Senator from Nevada.

Mr. REID. Mr. President, I am going to suggest the absence of a quorum.

Mr. BUMPERS. Mr. President, before the Senator asks for a quorum call, if I might just make a couple of observations, and then if he still wants to put the——

Mr. REID. I think we can avoid a quorum call if I can direct a question to the Chair.

I apologize to my friend.

Mr. BUMPERS. That is fine.

Mr. REID. It is my understanding, Mr. President, that the pending business would be the Reid-Domenici-DeConcini-Byran amendment, and that the amendment offered by the Senator from Arkansas would be a subsequent amendment; that the Reid amendment would have to be disposed of prior to operating on the second amendment.

The PRESIDING OFFICER. The Chair is informed by the Parliamentarian that the pending amendment is the Bumpers amendment.

Mr. BUMPERS. Mr. President, there is so much to be said, I hardly know where to begin, because I have made my speech on this problem in this body. This is the fourth straight year. I simply want to say to my colleagues that this problem must be resolved. It will not be resolved by the amendment

of the Senator from Nevada, which is, at best, a diversionary tactic; nor will it be resolved by the amendment I just sent to the desk, which is a moratorium on issuing of patents until October 1 of 1993. That is no solution either.

Mr. President, I think of the hours I have put, in the past 2 years, into an effort to bring to this body a comprehensive mine law reform bill, when I think of how many Western Senators I have talked to, how many endless hours of staff work, giving, talking, compromising when I did not want to, changing almost totally the complexion of the bill I first introduced last year, which was S. 433, in an effort to bring a conclusion to the problems which persist, and will persist forever until this body takes action.

The authorizing committee in the House has passed a very comprehensive bill. It is one the American Mining Congress deplores. I do not blame them. I might say to my friends in that organization—and I have been visiting with them—there are a lot of fine people in the American Mining Congress, and they represent mostly the big mining companies of this country. I can promise you they want it resolved. They may not want it resolved precisely the way I do, but they are tired of seeing all of these exposés on "20–20" and "PrimeTime Live," and the two exposés on the evening news in the past 30 days, and on NPR yesterday morning, for the 40th time.

So they want it resolved. They are tired of being hammered, and I am tired. I know my colleagues are tired of hearing me make these arguments. My father used to have an expression: "Everybody's business is nobody's business." Once you get east of New Mexico, in all fairness, not much of anybody in this body cares about this issue. When you go west of Oklahoma and Texas, everybody cares about it. They are concerned about jobs. They are concerned about their economies, and I am, too. I might also say that that moratorium that I have just offered as an amendment will not cost one job, not one.

It will not shut down one mine or cost one person his job. It is simply saying let us go back to the drawing board after the first of the year and see if we cannot resolve this?

At some point if we cannot come up with a comprehensive bill dealing with mining claims, dealing with reclamation and bonding, dealing with royalties, who is going to clean up the mess? If we cannot deal with all of those things which are central to this problem, then we probably will just pass some kind of a royalty bill here, and that will be the end of it. But I can tell you that would be a very sad commentary on the U.S. Senate if it accepts that as an ultimate solution.

Every evening on the news you hear commentators talk about how angry people are. They refer to the anti-incumbent mood. I may be wrong, and it may be a wish on my part, I believe that some of that hostility has waned a little bit. People may be mad about the House bank; they may be mad about the pay raise; they may be angry about the House post office scandal, or whatever it is. But I can tell you those who have watched all of these documentaries about this particular practice that we allow to go on uninterrupted on Federal lands, I promise you their anger boils over. Every time one of those who have watched all of these documentaries about this particular practice that we allow to go on uninterrupted on Federal lands, I promise you their anger boils over. Every time one of those shows comes on, the next day our switchboard lights up with people calling, biting their teeth, saying I cannot believe you guys allow this to go on.

(Mr. ROBB assumed the chair.)

Mr. BUMPERS. Mr. President, you think about this for openers. If you want to drill for gas, you want to drill for oil, on Federal lands, you have to submit a bid just for the right to drill, and then you have to agree to pay 12½ percent royalty on everything you take out of the ground, oil or gas. And that is the minimum. You have to file an environmental impact statement. You have to promise to clean the mess up when you leave, and the Government gets billions out of this. That is true of oil and gas.

If you want to mine coal on Federal lands in the West you have to submit a bid for it and you have to agree to a royalty of not less than 12½ percent.

If you are going to go underground, like they do in West Virginia, on Federal lands you pay 8 percent. If you want to try to generate power on Federal lands from geothermal sources you pay 10 to 15 percent.

But when it comes to hard-rock mining, you know we have a concept on forest lands called multiple-use sustained yield, which means you do not cut more timber over a 150-year period than you can reproduce. It means the forests have been available for recreation, camping, and hunting. All of these things are considered multiple uses. But if you walk into the national forest and you have a mining claim of 20 acres filed that did not cost you a penny, put up four stakes and you stake out 20 acres, 10 years later you go to the administrator of the Forest Service and say I have found a valuable mineral, that 20 acres immediately becomes the highest and best use of the property.

You think about it. And the Secretary cannot deny that miner the right to mine it. He cannot deny the miner the right to mine that if it is in the middle of Yosemite or Yellowstone National Park. If you think I am embellishing this, call them, call the Secretary of the Interior, call the chief of the Forest Service.

You think about all the resources on Federal lands in this country, but hard-rock mining is always considered the highest and best use. Everything else is subordinate to it. And it has been that way now for 120 years, since Ulysses Grant put his name on the line in 1872 and put this bill on the books, which I am trying to reform.

When I first heard about this several years ago, I was as incredulous as you are. You mean to tell me that people can go out West and just put four stakes down and say this is my claim? The answer to that is "yes." If you want to file 25 claims on 500 acres, all you have to do is put the stakes down. That is right.

Do you know how many of those claims are already out there right now? Two million two hundred thousand. You know how many acres it is? Forty-three million, 45 million acres of Federal lands on which claims have been filed.

This bill contains one provision that the House bill contained that makes a very tiny change in dealing with the problem. In the past, for every claim you filed, you had to certify every year that you have done $100 worth of exploratory work on the claim. That has always been a charade; everybody knew it.

I tried to do it before, but the House put a provision in saying that in the future you cannot just say you put $100 worth of work in, you have to send us $100. That gives us a net $57 million. You know, in our subcommittee we can certainly find plenty of places to use that.

That is in the House bill and that is in the Senate bill, so you can count that, I think, as a done deal unless the President vetoes this bill.

But after you file that claim of 20 acres or whatever it is, if you find anything on it you can go to the Bureau of Land Management and I say I want a deed to it. And you go through certain steps over a year or two's time, and he will give you a deed to it for either $2.50 an acre or $5 an acre. It is a pretty good deal. Just last year the Secretary issued 26 of those covering 4,000 acres. Four thousand acres of Federal lands were sold last year for either $2.50 an acre or $5 an acre.

But what is unbelievable is that if that land produces $10 billion worth of hard-rock minerals over the next 30 years, you know what the U.S. Government gets out of it? Zero, not 1 penny.

The Senator from Nevada pointed out that the Newmont Mining Co., which is a British company—Sir James Goldsmith owns 37 percent of Newmont Mining Co.—they have a mine in Nevada and they pay on private land, the Senator said 16 percent royalty. It is my understanding they pay 18 percent. But if Newmont found gold on Federal

lands they would pay not 1 penny. And the argument is made here that somehow or other all the mining companies are going to go broke.

Now, Mr. President, you want to mine land, you want to mine land in Montana, you want to mine land in Montana, the royalty by the State of Montana is not less than 5 percent on the full market value. So Newmont, if they go over and mine on lands that belong to the State of Montana, they pay 5 percent. They mine on this private land they pay 18 percent. You want to go over to California and mine some on California State lands, you pay a 10-percent royalty. You want to mine in Arkansas, my home State, we have a royalty but we do not have any hard-rock mining going on. Arizona 2 percent; Alaska 3 percent; Colorado varies depending on the mineral; Idaho 2½ percent; New Mexico at least 2, plus at least 2 percent on all bonuses or premiums; Utah 4 percent; Wyoming, gross sales 5 percent, and 30 cents a ton for bentonite. And yet the Senators from all the respective States will speak here on the floor today and tell you the mining companies are going to go broke if they have to pay the U.S. Government 1 red cent.

What kind of an argument is that? It is strange, to say the least.

And who are these people? Who are these people? Listen to this. Here are the top 10 mining companies in this country. Carlin Complex, 45 percent United Kingdom; Goldstrike, 100 percent Canadian; Jerrit Canyon, 70 percent Luxembourg, 30 percent American; Smokey Valley, 50 percent Canadian, 25 percent U.S.A.; McCoy-Cove, 100 percent Canadian; McClaughlin, 100 percent U.S.A.; Chimney, 100 percent Great Britain; Fortitude, 100 percent U.S.A.; Bullfrog, 65 percent Canadian; Mesquite, 100 percent British. Two of the top 10 companies owned by the United States.

Somebody sent me a big feature story out of the London Telegraph, had my picture on it. I thought, "What on Earth?" Well, boy, do not think Great Britain does not have a passing interest in what happens in this bill?

But let me say this, Mr. President. These two United States companies, McClaughlin and Fortitude, I invite them to go to Canada and mine and tell the Canadians they want to mine on their land; they do not want to pay any royalties, and they do not want to file a reclamation claim, and they do not want to put up a bond for reclamation. The Canadians would laugh them out of their country.

Yet, they come here and say to us: I want to mine your land. I do not want to pay any royalties. And I might want to join 1 of these 77 abandoned mines on the Superfund site, so you taxpayers can pick up the tab for the mess I leave.

Mr. President, if we were to put a royalty on hard rock mines in this country, I daresay, GAO says there is $100 billion dollars worth of hard rock minerals still left on American soil, federally owned land, $100 billion. If you mined every drop of it, and you had a 5-percent royalty, and $5 billion was returned to the U.S. Treasury, I daresay that would not clean up those 77 Superfund sites.

Now I only point that out because that is just one facet of this whole thing. The Senator from Nevada has cleverly crafted an amendment that uses the term "fair market value." And who is opposed to fair market value? Fair market value of what? The surface.

Stillwater Mining Co.—listen to this, Mr. President. Some of you will remember rather late in the evening here in 1990, when we had this Interior appropriations bill up, I offered a patent moratorium exactly like this. And after a very heated debate between me and, as I say, all the western Senators, I lost 50 to 48. And there were some clarion calls that went off across the Nation.

Four days later, the Stillwater Mining Co. owned by Chevron, and I believe Johns-Manville, filed an application for patents, that is deeds, on 2,000 acres in Montana. Now they have a mine already in existence. I am not sure what they are going to pay for that, but I think it is $2.50 an acre. I take that back. I believe they are paying $5,000 for it, because I think they are going to pay $10,000 for 2,000 acres.

You know what lies underneath that 2,000 acres? By their estimates, not mine, by their résumés and their prospectus, not mine, 32 billion dollars' worth of palladium and platinum.

The Senator from Nevada would have you believe we are most honored to have the Stillwater Mining Co. willing to go out there and mine that for us.

If you were to adopt the amendment of the Senator from Nevada to pay fair market value, the last figures BLM put out showed that if you exclude California, the fair market value of all this Federal land that people are asking for patents on is $100 an acre.

So let us assume that we are going to hijack Stillwater and say, "We will not sell you the surface for $5 an acre. We have to charge you the fair market value, which is $100 an acre, and therefore you are going to have to pay $100,000 for this land."

Now, I want to ask you, when you consider Stillwater Mining Co., owned by Chevron and Johns-Manville, I want you to ask yourself what a big deal that is as to whether they pay $10,000 or $200,000. Either way they get 32 billion dollars' worth of hard rock minerals that belong to the taxpayers of this country, and they get it without paying 1 nickel royalty for it. So when you are talking about fair market value, you just think about that.

In many ways, in my opinion, the amendment of the Senator from Nevada adds a problem, it makes matters worse.

Illustration: let us assume that you go to Arizona or New Mexico, which have no reclamation laws, none. No reclamation laws. And the Senator's amendment says that you will either comply in mining with the State law, and if there is no State law, which obviously applies to New Mexico and Arizona, then you will comply with Federal law.

So you ask yourself, that sounds pretty good, does it not? If there is no State law, I have to comply with Federal law. There is just one problem. There is no Federal law.

I will tell you what the Federal law is and it is the only one. It is called the Federal Land Policy Management Act, which we passed here about the second year I was in the Senate. And what it says is, you will not cause any unnecessary disturbance or—I forget what the other word is—undue degradation. What does that mean?

Let me take you a step further. Did you know that once you have a claim and you can prove to BLM that you have found a valuable mineral—that is the term, valuable mineral—he cannot keep you from mining that mineral. If you do not like his application on reclamation or anything else, you can negotiate with him, but you cannot keep him from mining it.

In the case of Arizona and New Mexico, he goes in and he puts up a 20 acre mine. Now bear in mind if it is 5 acres or less, he does not have to consult with anybody. All he has to do is file some kind of a plan that is just nothing.

Incidentally, most mines in this country are in that category, below 5 acres. That is where a lot of these Superfund sites come from, too.

But let us assume he goes broke. Nobody is looking at the environmental laws. He leaves it and it is an environmental disaster. He leaves it for us to pick up.

The amendment of the Senator from Nevada says, oh, we have taken care of that. The Secretary has the right to renounce if he abandons it, and instead of it reverting back to us, as his amendment provides, the Secretary can renounce the reversion part of it.

So what do you have then? You have private lands again on the Superfund list.

There are over 400 patents pending in this country right now, and if we do not pass this moratorium, a whole host of them are going to be granted.

I consider the Senator from Nevada one of the finest men in this body, a man of integrity, a man of sincere beliefs, a man who I am happy to call my friend. But if you adopt this proposal which, as I say, is nothing in the world but a diversionary tactic—the term "fair market value" has been very carefully crafted to make you think

they are paying fair market value for the minerals. They are paying nothing for the minerals. They are buying the surface which has a value of $100 an acre and pretending this problem has been resolved.

The House bill provides for an 8-percent royalty. Think about that. That is on every stick you take out. I am willing to talk about profits, taxable profits, put a royalty on the taxable income of the company.

Mr. President, this photograph is by David T. Hanson. It has not been altered. This black pond right here with the orange edge is water which has been poisoned by mining filling that pit. This is the Black Cloud Mine in Leadville, CO. That is a pretty appropriate name, is it not? Black Cloud—when you look at that pond down there.

It is now a Superfund site. The taxpayers of this country will have an opportunity to pay millions, probably hundreds of millions to clean this mess up. And if we do not do better than we have been doing, there will be another one and another one and another one and another one and the taxpayers get left for something they got nothing in return for.

Mr. STEVENS. Will the Senator yield?

Mr. BUMPERS. Yes.

Mr. STEVENS. Does it not happen to the private land in the Senator's State? The Superfund pays those costs on private lands in the Senator's State. Why should we have a distinction between public land? I do not quite understand the Senator's point about the Superfund, the taxpayers are going to pay to clean up. The taxpayers are going to pay to clean up past abuses on lands in the United States, not just on public lands.

Mr. BUMPERS. Senator, it does not make any difference to me whether it is private lands or public lands. This land apparently has been abandoned and so it now reverts back to the United States. So from that sense, it is public lands, but I would not care whether this occurred on private land or public land.

What I was saying a while ago, Senator, is you are going to have a situation, for example, in Arizona and New Mexico, which becomes private land when you sell the surface and it is going to remain private land until he abandons it and maybe leaves this kind of a mess and the Secretary says we are not going to take that mess back. Then it becomes a Superfund site which is a site on private land because we sold the surface.

Mr. STEVENS. Will the Senator yield again?

Mr. BUMPERS. Yes.

Mr. STEVENS. The Federal Government gave the Senator's State to the homesteaders. We have the same obligation under the Superfund land. I think sometimes the Senator was born 100 years too late. The problem really is many of these issues were created on privately held land, many of them are on publicly held land. I do not see that you should say this land reverts to the United States. It is U.S. land because it is not entered into the private ownership of land as is the situation in almost every State in the Union except for some of the public land States in the West, where the Senator's philosophy prevents private ownership from having a responsibility. If we had private responsibility, that would not have happened.

Mr. BUMPERS. Senators, since you raised this issue about public versus private, let me ask you this question: If you had 1,000 acres and knew there was 32 billion dollars' worth of hard rock minerals under the surface, would you let me come in and start mining it?

Mr. STEVENS. I will be pleased to answer that question in this way: In the Senator's State, there was a great land rush and whoever wanted lands went out and took it. And the good people of the United States gave that land to your predecessors in Arkansas. In my State, it has either been reserved or inaccessible. One of the few things left, one of the few laws left is the Mining Act of 1872.

Mr. BUMPERS. You talk about being 100 years too late. The Senator is the one born 100 years to late. This should have been corrected 50, 100 years ago.

Mr. STEVENS. Perhaps we should not have repealed the Homestead Act, or repealed the Small Tract Act, or repealed the Trade Manufacturing Act—all of the acts the people of the Senator's philosophy sought to deny people access to the public lands in the West.

We do not have the same right existing in your State when it was subject to development. Nevada, Arizona, the public lands of the States of the West are now denied access. This is the one act left—the one act left—the mining law of 1872 which has sustained the great mining industry of America, is now under attack because of the Senator's basic attempt to say these lands, contrary to the history of the West, should not be available under any circumstances unless you go out and find out what they are worth before you dispose of them. Is that not the Senator's philosophy?

Mr. BUMPERS. Does the Senator think the mining company makes all those determinations before they open a mine? Why, of course, they do. They do not go out there and start mining without core drilling, without exploration, without doing all the preliminary work to decide——

Mr. STEVENS. Who does that, Senator? Who does that, Mr. President? I hope the Chair will permit a little exchange.

Mr. BUMPERS. We are not on a time agreement. We are just having a colloquy.

The PRESIDING OFFICER. The Chair requests Senators direct their comments through the Chair.

Mr. BUMPERS. Will the Parliamentarian restate that?

The PRESIDING OFFICER. The Chair requests Senators direct their comments through the Chair.

Mr. STEVENS. I apologize. Mr. President, again, I want my friend to yield and I assume he will.

Mr. BUMPERS. Let me say to the——

Mr. STEVENS. Will the Senator yield?

Mr. BUMPERS. I will be happy to yield.

Mr. STEVENS. So I can finish this concept.

In terms of what the Senator is pursuing now, he is saying that because the taxpayers, really the people of the United States own public lands out there that there should be a determination of what is in the land before it can possibly go into the industrial base of the West; is that not what the Senator is saying?

Mr. BUMPERS. Would you repeat that? I am sorry.

Mr. STEVENS. I said, is not the Senator saying that before this land that is subject to a mining claim under the 1872 laws is subject to a patent, there should be a determination of the value of what is in the mining claim and that the person who has discovered the ore body should pay the fair market value of the ore body, you want a determination of the value of the contents of the land before it is passed under the mining law of 1872?

Mr. BUMPERS. Not at all. I want to clarify that for you. Nothing can be further from the truth. You asked me about getting a patient on the land. Let me state for the clarification of all my colleagues, about 70 to 80 percent of the mining on Federal lands is not under a patent. Why is it not? Because if you want to go mine on your mining claim, they will let you do that. You do not even have to get a patent.

But what the members of the American Mining Congress and some of the big mining companies say, if we do not have a deed, we cannot borrow money.

That is the reason they say they want a patent to the minerals. I would not presume to tell them anything about what is under the surface of that land. They are business people. They are not going to mine it unless they think they can make money. They are not going to go to a bank and borrow money unless they think the ore under that surface is minable in commercially producible quantities.

But my point is this: If you want to mine on a tract less than 5 acres, you do not have to say boo to anybody. You just go out there and start digging. You do not have to clean it up or any-

thing. If you mine on an unpatented tract of land over 5 acres, you do have to get a deed. That is about all. That is what most people do.

The Senator is concerned about small business. I am, too. I am chairman of the Small Business Committee. I am concerned about all small business people. My point is this: I am not going to have to go out there and decide that. I know you are not going to mine it and borrow money on it unless you have core drilled and checked to see.

My point is simply this: How many times has the Senator told the Chamber of Commerce and the Rotary Club back home that he was going to treat their money and their land just like it was his own? You cannot say that. You cannot say that truthfully and come in here and say we are going to give away 100 million dollars' worth of hard rock minerals that belong to the taxpayers of this country.

I am not trying to put one single mining company out of business. God bless them. They provide jobs, and I want them to. But I must say I deeply resent the argument that somehow or other they can pay a royalty on private lands, they can pay a royalty to every single State in the West with the possible exception of Nevada, but for some reason or other if you require a royalty of them on this, a good portion of which, incidentally, I would put into abandoned mine sites and start cleaning some of those messes up—if you say you have to pay because it is on Federal land, they say, "Oh, my God, we are going broke." That is an absolute oxymoron. You cannot have it both ways.

Mr. STEVENS. Will the Senator yield? And then I will cease my interruptions. Mr. President, will the Senator yield for one more comment?

Mr. BUMPERS. I will be happy to yield.

Mr. STEVENS. Mr. President, when this Senator has the opportunity to have the floor, I want to address at length what the Senator from Arkansas is saying. It is my feeling that Congress is being asked to change the rules of the process that has led us to have a mining industry of significance in the world.

It is particularly true that the mining industry is flourishing in the Western part of the United States. People have pursued claims on some of these lands now for 20, 30, 40, I know of one 50 years, and now the Senator from Arkansas is saying, "Ah, but just as you come to the last single thing, the patenting process, we are going to change the rules because this land is Federal land, not private land."

Now, I intend to show that a vast portion of the public lands in the United States were made available through incentives passed by Congress for development, for occupation, and entered the private sector and now contribute to the revenue of the United States.

What this proposal of the Senator from Arkansas does, in my judgment, as I said, is to change the rules. It is to say to people who have relied on the mining law of 1872 for years—some of them have put almost their whole lives into developing a mining claim—now it is time to go to patent because, as the Senator said, it is necessary to have financing.

I know of one set of claims where that was true in particular and, because it was not possible to get financing, they were sold to Canada, where similar laws do not apply. They have the penny stock act over there. You can go out and finance mining claims in Canada very quickly.

It is significant to point out that the five major prospects for ore development in my State today are all owned by Canadians. Why? Because the philosophy of the Senator from Arkansas does not prevail in Canada. It is possible to pursue claims, it is possible to bring minerals into production, and it is possible even to go into the United States under Canadian law and pursue these claims.

But the Senator wants to change the rules for people who have been mining in the past. If you want to follow what my good friend from Nevada wants to do, and say let us look at what the Senator from Arkansas wants to do, and they can prospect, then let us let them out.

If you want to set policy now and say in the future anyone who wants to mine on public lands, these are new rules, make up your mind before you enter into this and devote your life to it.

The Senator says he is for the small miners. Most of the claims that have developed into significant mines in this country started with one man and one pick and one burro. They were the small miners. And that is still true in my State. I believe that we must keep in mind those people who are living out there who are mining. I wish the Senator would go with me to some of the small mines. I know what small mines are. I have an Eskimo friend out of Nome who has a small mine he works every year. He is still hoping he can bring that into full production and ultimately get his patent and some financing. But he has been doing that now as long as I have known him, which has to be 30-plus years.

Mr. President, this concept that the Senator from Arkansas is presenting to the Senate, once again, ought not to be voted on quickly. It is time for us to review the history of the United States in the West. I wish I had the memory of my good friend from West Virginia and could go through and recite every single development since 1872 and the States where the laws were allowed to work and now in the States such as Nevada, Arizona, Utah, Montana, Colorado, Alaska—the mining States that are left—the Senator from Arkansas wants to change the rules.

I will not make any further statement at this time. I will obtain the floor in my own right later. I will make one last comment. That is, the 5-acre rule does provide for reclamation and all other environmental laws apply to the mining of those small mining claims. The Senator knows that. And it is not possible in the future to have that kind of picture presented on new mining claims. We already have taken care of that and the mining industry has agreed to it.

This is an accident of the past. And there are accidents like that on military reservations. There are accidents like that on private lands in New York. There are accidents even, God forbid, in the great State of the current occupant of the chair, Virginia.

We know we have problems under the Superfund law. But it is not the fault of the public land laws. It is the fault of past practices in terms of proper practices from an environmental point of view. We have taken care of that in the mining law already. And the Senator ought not to leave the impression that kind of accident of history is going to occur in the future on small mining claims. We already have the 5-acre law that requires reclamation and all environmental laws apply.

I thank the Senator.

Mr. BUMPERS. I thank the Senator. Mr. President, I do want to correct one thing. On the under 5 acres, no plan, no reclamation, no nothing; simply a notice of entry is all you have to file.

Now, Mr. President, let me also say one of the reasons that this one attracted my attention is its presence in Leadville, CO. And where do you think it drains? Into the Arkansas River. So I have more than a passing interest in this particular environmental disaster.

Now, Mr. President, I want to comment on some of the things that the distinguished Senator from Alaska raised. He is always a very worthy adversary, feels strongly about this issue, and I understand that and respect his opinions. I can remember listening to those very same speeches on this floor for 8 years, 8 years, when I was trying to get the Bureau of Land Management to quit leasing Federal lands for oil and gas exploration for $1 an acre. It took me 8 years to get the Bureau of Land Management, to get a bill passed here to lease Federal lands for oil and gas drilling on a competitive basis. For 8 years I was told that every mom and pop independent operation in America was going to be driven out of business. The law went into effect in 1988. Not only does it produce more revenue for my State of Arkansas and the U.S. Treasury, it is working like a charm. Not one single claim of how the world was going to come to an end even came close to being true.

This is an issue, this issue on mine reform, I may not win this year. I did

not win last year. I did not win the year before. But issues like fighting with old Betty, those that I win just are not over.

We are going to revisit this and revisit it until we get some environmental reclamation laws on this, until the taxpayers are treated fairly, just as they were being treated shabbily in oil and gas leasing.

So I want to reemphasize that: If you want a mine on a 5-acre tract or less, you do not have to do anything except let them know you are mining. You do not have to file a reclamation plan.

Finally, I want to say that if I were a Canadian or if I were British, I would be in the United States mining, too. I promise you, the Canadians or the British—even the South Africans—would laugh you out of town if you came in and said:

"You have a 10,000-acre tract of land out here; I think I will go out and start mining that."

"Just a cotton-pickin' minute. Do I have any say-so over this?"

"Not really. I have already checked it out. There is a lot of gold in that land."

"That is my land."

"Well, you don't understand. It belongs to me now. I have a claim on it. I've checked it out. It has a lot of minerals underneath it."

"I cannot believe you are serious."

"Yes; I am serious."

What if you walk off and leave a big old open pit? That is your problem, too.

There is not a Member of the U.S. Senate that would even consider anything as ridiculous as that.

The Senator from Nevada comes in and says if you will just pay fair-market value for the service, that is going to make everything OK. I do not really care about that. I am not going to vote for it, and I hope an awful lot of other people will not, either. If I ever saw a nothing amendment, so far as addressing a critical problem, this is it, not to denigrate or be disrespectful to the Senator from Nevada. We all know what it is. It is a diversion from the real problem.

Mr. President, if you vote, you are going to vote on this moratorium first. And bear in mind that if you vote for my amendment, the House bill also has the moratorium in it. It will not be a conferenceable item. Then we will have next year, the rest of this year and all of next year, to address this problem in a sensible way—one that deals with all of it, not just a piece of it.

There is another interesting piece of information about this. When I used to practice law, if somebody wants to—like the Federal Government or the State—to condemn your property, they have that right. Or if somebody wants to stop you from doing something, and they go to court to get what is called an injunction, you go into court and you say: "Your Honor, the plaintiff is not entitled to this injunction, and it is going to cost me $10,000. If you rule a month from now that you should not have granted that injunction, I will have been damaged by $10,000."

Do you know what the judge does? He says: "I am going to require the plaintiff to put up a $10,000 bond to save you, and save you harmless from any damages you sustain if this court decides the injunction was wrongfully issued."

You would think that if somebody came in and said: "I want to mine this land out here, and I want to file this reclamation plan," and incidentally, the inspector general says BLM routinely does not enforce any kind of reclamation plan. But when you do file a plan, and you say: "Here is where I am going to reclaim it; I will do the best I can with it. I will try to make sure there is no undue disturbance," you would think you would put up a bond. That is your private land. You nailed out every "i" and every "t" to make sure your land was put back in the best condition. You negotiate for the highest royalty you can get. And you would make them put up a bond on the front end to be sure the reclamation took place; that is, unless you need a saliva test, that is what you would require.

Do you know what the BLM and the Forest Service require in the way of bonds? The Forest Service requires bonds in 82 percent of the cases. The Bureau of Land Management requires bonds in 22 percent of the cases.

Mr. President, there is another point that I want to make, that I made earlier, but I want to stress it because it is extremely important. If I filed a claim 50 years ago 100 yards from Old Faithful, and I have been working it and I finally decide that that tract of land 50 yards from Old Faithful has gold underneath it, I can start to mine that.

Do you know the only way the U.S. Government can keep me from mining within 50 yards of Old Faithful? Buy me out.

You heard me say earlier that the 1872 mining law makes hard-rock minerals the highest and best use of the land. You think about that. If you have a claim right next to the Yellowstone River, one of the truly pristine rivers that runs through Yellowstone National Park, and we do not want you to mine it because there will be all kinds of tailings going into the Yellowstone River, the Federal Government has to buy him out, buy him out for what he paid nothing for.

And the Oregon Dunes case—you all know that. I am not going to go through all of this litany of horror tales that the GAO put in their report, where people bought land and sold it for thousands.

If there is any merit at all to the amendment of the Senator from Nevada, it would keep somebody from paying $2.50 an acre for a valuable piece of property that is capable of being part of a ski slope. That is what happened in Colorado. They would have to pay fair-market value for the service. But 99 percent of this land is worth $100 an acre. It accomplishes nothing.

But what I was going to say is, in the case of Yellowstone River, you would have to buy me out, and I have paid nothing for it.

Let me tell you one other thing. I want to say this to the Senator from Alaska. Several years ago—I forget who it was—some Hollywood starlet said that quartz crystal would cure athlete's foot, corns, cancer; everything. And there was a rage which swept across the country. Everyone was going to the store and buying these crystals and putting their hands on it. Have you ever seen that done? If you put your hands on these quartz crystals, it would cure whatever is wrong with you.

Where do you think the biggest quartz deposit in the United States is? The Ouachita National Forest in my beloved Arkansas. So the first thing you know, bus loads of people are coming down to the Ouachita with spade in hand, and they are digging the place up. Do you know what I did? I got a bill passed in 2 weeks to take quartz crystal out from under this mining law.

We made some money. The State of Arkansas got some money out of it. We made them put up a little plant before they could go out there and dig. That is what we ought to be doing with the gold and silver, and all the rest. The Senator from Nevada made a point about all of these strategic minerals: 80 percent of the gold mined in this country goes into jewelry. It does not go into making weapons. A lot of it goes into teeth, and 80 percent of it goes for jewelry.

Mr. President, for all the reasons I have just cited, and a lot more, I hope this body will at least have the courage to put a moratorium on this until we can pass a bill. I am probably not going to—I do not want to categorically guarantee this, but I am probably not going to—introduce a royalty bill if the moratorium is adopted because that takes a lot of the pressure off the rest of the bill, namely reclamation, and a whole series of issues in the bill.

I think the American Mining Congress has a deep and abiding interest in a comprehensive solution. They do not enjoy those "20-20" shows anymore than anybody else does. I think there is a chance to do it. Time is not running out. It is just a question of when are you going to do it.

Every year that goes by, somewhere between 1½ and 4 billion dollars' worth of hard-rock minerals are coming off of what once was Federal land, or still is Federal land.

Let me repeat that: Every year—the estimates vary; the lowest is $1.2 bil-

lion and the highest $4 billion—billions of dollars' worth of hard-rock minerals are being taken off the Federal land belonging to the taxpayers, for which we do not get 1 cent and are quite often called on to clean up something like this that is going to be billions of dollars. And there is still 100 billion dollars' worth of hard-rock minerals on Federal mines that are going to be mined, and we will not get a nickel out of that, and continue to clean up sites like that.

I yield the floor.

Mr. REID addressed the Chair.

Mr. BYRD. Will the Senator yield to me?

Mr. REID. I would like to send up my amendment.

AMENDMENT NO. 2882 TO AMENDMENT NO. 2881

(Purpose: To make improvements in mining law)

Mr. REID. Mr. President, I send my amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] for himself, Mr. DOMENICI, Mr. DECONCINI, and Mr. BRYAN, proposes an amendment numbered 2882 to amendment numbered 2881.

Mr. REID. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language proposed to be inserted insert the following:

( ) MINING PROVISIONS.—

(1) PAYMENT OF FAIR MARKET VALUE.—Any person receiving a patent pursuant to the Act commonly known as the Mining Law of 1872 (sections 2319 et seq. of the Revised Statutes) shall pay fair market value for the interest in the land owned by the United States exclusive of and without regard to the mineral deposits in the land.

(2) LIMITATIONS.—

(A) IN GENERAL.—Any land patented after the date of enactment of this Act pursuant to section 2325 of the Revised Statutes (30 U.S.C. 29), section 2333 of the Revised Statutes (30 U.S.C. 37), or section 2337 of the Revised Statutes (30 U.S.C. 42) shall be used only for mineral exploration, mineral development, mining, mineral processing, benefication, or uses reasonably incident to those uses, except with the approval of the Secretary.

(B) REVERSION.—Title to the land referred to in subparagraph (A) shall revert to the United States if the land is used for any unauthorized or unapproved use, and the unauthorized or unapproved use is not discounted within a time period specified by the Secretary (but not earlier than 90 days after the Secretary gives the owner of the land written notice to discontinue the unapproved use) and if the Secretary elects to enforce the reversionary interest. The reversion shall be made effective if the Secretary files a declaration of reversion in the office of the Bureau of Land Management designated by the Secretary of the Interior, and records the declaration in the county recorder's office of the county in which the lands subject to a reversion under this paragraph are situated. Not later than 30 days after recording the declaration of reversion, the Secretary shall serve on the owner of the reverted lands a recorded copy of the declaration, in the same manner that a summons and complaint are served under the Federal Rules of Civil Procedure under title 28, United States Code.

(C) RENOUNCING OF REVERSIONARY INTEREST.—If the Secretary finds that it would not be in the best interest of the United States to exercise the reversion for any reason, including any case in which—

(i) any portion of the lands included in the patent have been used for solid waste disposal or for any other purpose that may result in the disposal, placement, or release of a hazardous substance: or

(ii) continuance of the reverter serves no public purpose,

the Secretary may renounce the reversionary interest of the United States in the lands included in the patent by filing and recording a declaration of renouncement in the same offices in which a declaration of reverter would have been filed.

(D) REQUIREMENT FOR PATENTS.—Each patent to land acquired under section 2325 of the Revised Statutes (30 U.S.C. 29), section 2333 of the Revised Statutes (30 U.S.C. 37), or section 2337 of the Revised Statutes (30 U.S.C. 42) shall state that the patent is subject to the provisions of this subsection.

(3) RECLAMATION.—Any land patented after the date of enactment of this Act shall be subject to the mining reclamation law of the State in which the land is located. In the absence of applicable State mining reclamation law, the land shall be subject to Federal mining reclamation law. Each patent shall recite that as a condition of the patent, the land patented shall be reclaimed to comply with Federal law or to comply with the mining reclamation law of the State in which the land is located.

(4) DEFINITIONS.—As used in this subsection:

(A) HAZARDOUS SUBSTANCE.—The term "hazardous substance" has the same meaning provided the term under section 101(14) of the Comprehensive Response, Compensation and Liability Act (42 U.S.C. 9601 (14)).

(B) SECRETARY.—Unless specifically designated otherwise, the term "Secretary" means—

(i) The Secretary of the Interior with respect to patents issued for lands over which the Bureau of Land Management has jurisdiction; or

(ii) the Secretary of Agriculture with respect to patents issued for lands within national forests.

Mr. BUMPERS. Reserving the right to object, I would like to hear the amendment read.

The PRESIDING OFFICER. The clerk will read the amendment.

Mr. REID. If I could save the body some time, it is the amendment I offered earlier today.

Mr. BUMPERS. The same amendment?

Mr. REID. Exactly. I have deleted one phrase, but I talked to the Senator earlier about what it is.

Mr. STEVENS. Reserving the right to object, may I inquire, Mr. President, has the amendment been modified according to the request I made?

Mr. REID. It has not. I am confident we can do that at a subsequent time.

Mr. BUMPERS. Mr. President, parliamentary inquiry. I am looking at Senate procedure on amendments. I would like to make a parliamentary inquiry as to where his amendment is located at the moment. My amendment was a second-degree amendment to the first committee amendment. Where is the amendment of the Senator from Nevada?

The PRESIDING OFFICER. The amendment has been offered as a second-degree amendment, and it is in lieu of the matter inserted——

Mr. REID. I inserted, in lieu of that, my amendment.

The PRESIDING OFFICER. Who seeks recognition?

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I yield to the manager of the bill.

Mr. BYRD. Mr. President, I simply wish to inquire as to, in the Senator's opinion, how much longer does the Senator think we will be on these amendments?

Mr. REID. I reply to the chairman of the Appropriations Committee, as stated by my friend from Alaska, I do not think this debate is going to be very quick. We have here the Senator from Arizona, the Senator from Nevada, the Senator from Alabama, and the Senator from Alaska, who wish to speak in favor of the amendment. I think that will probably take—I am speculating—a couple of hours.

Mr. BYRD. If the Senator will yield further, Mr. President, we have already been on these amendments now for over 2 hours. We have heard two excellent speeches. I have tried to listen attentively, and I have been very interested in what each of the Senators have had to say. There are other Senators who want to speak, and they are certainly entitled to speak.

I wonder if the Senators would consider trying to develop a time agreement, which would allow those Senators to speak, but also allow us to reach a conclusion one way or the other on these amendments. It is my understanding that we will go off this bill at 12:30 today and go back to the transportation appropriations bill. At some point in time later today, then, the Senate will revert its attention to the pending Interior appropriations bill.

I hope that the Senators will give some thought to a possible time agreement. Otherwise, as I understand it, there are some other legislative issues that are going to be taken up on this bill, and while I can understand the great concerns that motivate Senators to attempt to offer their amendments under the bill, these are legislative matters, and they really ought to be worked out in the legislative committees and brought out as legislative bills.

I guess I am just kind of subliminally pleading to the Senators to see if we

can work out some kind of time agreement and let the Senate reach its will on these amendments, and let us go on to the next legislative issue and get around to the appropriations substance.

The PRESIDING OFFICER. The Senator from Nevada retains the floor.

Mr. REID. Mr. President, I respond to the chairman of the Appropriations Committee that I think we all recognize that the chairman wants to move. This is his bill as chairman of the committee. For this Senator, in my years in the Congress, both in the House and in the Senate, one of the examples that I have recognized has been the chairman of the Appropriations Committee. When the chairman feels strongly about an issue—and that is often—the chairman has set an example for me to make sure that something as that important to my State of Nevada, as to the State of West Virginia, is adequately covered. Taking into consideration the suggestion of my friend and exemplar, the chairman of the Appropriations Committee, during the break I will work with my friend from Arkansas to try to work something out, recognizing that people feel very strongly. There is one other person coming to the Chamber to speak in favor of my amendment.

Mr. BYRD. If the Senator will yield further, I have great admiration for my friend. I do not have a closer relationship in the Senate, I do not believe, than I do with the Senator. What he says, of course, appeals to me. He is standing up for his people, as I have stood up for mine. There is one major difference, however. The coal miners amendment which I offered was not offered to an appropriations bill. That was involving the Clean Air Act. I am simply trying to indicate to Senators that I hope we will move along at a little more rapid pace, and if those Senators can get together among themselves and see if they can offer some kind of a time agreement, I would be very pleased. I thank the Senator.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada retains the floor.

The Senator from Arizona.

Mr. DECONCINI. Mr. President, let me just comment on the appropriations chairman's remarks. I think the Senator from Nevada understands the necessity to move on, and I certainly do as well. I think the Senator from Arkansas has made his speech here. A few of us have a little bit of time. I will not take anywhere near the time of those Senators, but I think something can be arranged, and I will help in any way I can.

Mr. STEVENS. Will the Senator yield?

Mr. DECONCINI. Without losing my right to the floor.

Mr. STEVENS. I heard my good friend, the distinguished President pro tempore of the Senate. I want to notify the Senate that this amendment, this year, has a different context than the one last year. There are a number of Senators on this side that want to speak. I have been asked to object to any time agreement on this amendment, or Senator REID's amendment, and, unfortunately, I will do so. This amendment will severely cripple at least three States in the West. I think we intend to try to show that to the Senate. If my good friend from West Virginia wants to remove it entirely by correctly stating it is legislation on an appropriations bill, perhaps we should face it that way. But it is a moratorium on the issuing of patents that are entitled under the current law to be issued. As such it is just anathema once again to us. I have to state to the Senate, I know at least four Senators on this side who want to speak at length on this subject.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona retains the floor.

Mr. DECONCINI. Mr. President, I appreciate what the Senator says, but notwithstanding that, the Senator from Alaska knows as well as anybody that people change and find ways to attempt to find accommodation here. I think that is what the Senator from West Virginia is only asking for. I do not think it is at all inappropriate that we try to accommodate that.

I have an Appropriations Committee bill as well. I want debate on it. I have amendments, and everybody else will. We know we have to move this bill, and I know the Senator from Alaska is committed, as anybody, to want to move the bill. We will work with those Senators who do not want, at this moment, to set a time.

Mr. SHELBY. Mr. President, will the Senator yield for a question?

Mr. DECONCINI. I yield for a question without losing my right to the floor.

Mr. SHELBY. Mr. President, I mentioned earlier the Senator from Alabama would like to speak sometime on behalf of the amendment offered by the Senator from Nevada.

I have a lot of respect for the chairman of the Appropriations Committee. We do need to move the bill, but this is important. Coming from a State east of the Mississippi River, a State that is involved in the steel industry, we need minerals, and these minerals are mainly located out in the West. At the proper time if there is a time agreement and the distinguished Senator from Nevada is involved in it, I hope he will allot the Senator from Alabama additional time to speak.

Mr. DECONCINI. Mr. President, I yield to the Senator from Idaho with the understanding I do not lose my right to the floor.

The PRESIDING OFFICER (Mr. KOHL). The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, I recognize the Senator has a right to the floor.

Let me only say I have to reflect on what the Senators from both Alaska and Nevada have indicated to the chairman of the full committee. It is so fundamentally important to public land States that derive a great deal of their economic vitality from mining that we clarify and have an opportunity to express those concerns. And I am certainly willing to sit down and work out a time agreement.

I acknowledge all of my colleagues have said time and time again in repeated fashion these issues, and they are important, and we have clearly delineated them. I think we can do that with a degree of consistency. We do not need to go on and on.

At the same time, the patent moratorium is a wholly new issue that we have not debated here on the floor, and although it is complicated for some to understand, I know the Senator from Arizona clearly understands the kind of impact that this has. It is not the issue of the $100 fee; it is not the issue of surface values. It is the issue of being able to carry forward existing rights and operate, based on one's finding and one's ability to develop a fee title. And so time is important, that we do recognize and deal with this issue properly.

I thank the Senator for yielding.

Mr. DECONCINI. I thank the Senator from Idaho. I am sure he will want to be here. I relate we need to find time. I am going to try to curtail my time here.

Mr. President, this is a crucial issue. The Senator from Arkansas has raised it many times, and now we are back again.

I would like to take a moment of the Senator's time—and I will try to be short—to relate to this body and public, whoever is watching it, what the importance of the mining economy is to my State of Arizona. Eleven major mining Western States account for 70 percent of the U.S. production of metallic materials. Arizona alone accounts for 61 percent of the amount of copper that is produced in the United States.

The mining industry contributes $5.67 billion to the Arizona economy. Mining people, or people on the side of Senator BUMPERS amendment say fine, then pay more money.

Mining has a particular impact in the economic areas of Arizona and I will explain why in just a moment. In some areas, like Greenlee County, it amounts to 70 percent of the personal income in that particular county.

Mr. President, I would like to refer my colleagues to several charts to demonstrate why this is so sensitive to

the West, why we are here pleading with the Senator not to take away one asset that we have. Let me tell you one asset that we do not have and that is fee simple land in our State.

Let me just point out the State of Arizona, represented in this chart by the green here, indicates that only 17 percent is privately owned land. That is all we have.

In Arkansas, the green represents privately owned land of 85 percent. And that is the way it is in most States, except some 11 Western States. So we do have a sensitive understanding of what land and patent rights are all about.

The Federal Government has 45 percent, and the Indians, which is in trust by the Federal Government in their behalf, have 5.4 percent, and the State has 13 percent.

So where do we look for our economic growth? We cannot look just to the private land and talk about royalties that we would do. Sure if all of this green were private land, then we would be talking about a real market system. We do not have a market system. We are under the benevolent hand, we like to think, of the Federal Government.

When Arizona became a State there was nobody living there, and the rest of this body that voted in the House to let them in said let us hold this land back, and nobody objected. I ask Senators, how would you like it if that land were held back in your State? You cannot do anything about it. That was the admission price to get in the Union. We accept that. And now we have to deal with the economic impact.

So what do we have? We cannot afford to have a moratorium on the land that we can get our economic benefit from. The Senator from Arkansas points out that there is no income coming from this land. This is not true. There is income from it. There is income from the fees that the Senator from Nevada has instituted in his pending amendment, of $100 a year.

The Senator from Arkansas just cannot have it both ways. In 1991 he said under the existing mining laws, debating this same subject, a patent fee simple title to a mining claim on Federal lands may be obtained for the purchase price of $2.50 an acre for a master claim, $5 an acre for a lode claim, a price that has not changed since 1872. A giveaway, pure and simple. He further says, "One does not need to have a real estate broker's license to know $5 acre is far less than fair market value of patented land."

The Senator from Nevada has instituted a fair market value for the lands.

When you say "fair market value," we are talking about the surface of the lands. That is what you talk about if you are talking about a shopping center that you want to build on a piece of land, or you want to build a hotel on a piece of land. You talk about the fair market value of the surface fashion of land. You do not make people drill down in there to see if anything is there. You say, oh, we are going to build the 20-story building here and there may be oil down there, we have to raise the surface value of that. Nobody does that. That is the fair marketplace, and the Senator from Arkansas knows that.

And here the Senator from Nevada has voluntarily changed the law. Why has he done that? He has done that because we have talked to the Senator from Arkansas many times and he has raised some legitimate issues and he is correct. There have been no major changes in the 1872 mining law. There have been some 11 changes, I believe, but they have not been major. Certainly they were not dealing with the fair market value of the land that is going to be patented. The Senator from Nevada has proposed that, and it is a legitimate proposal that ought not to be just disregarded as frivolous or of no consequence. It just is not fair to classify it in that manner.

What else does Arizona do with some of this Federal lands that we have here? Last year we passed through this body and the House, and it became law, a 2-million-acre wilderness bill. So we have not said, hey, we have to have all this land, we must keep this land for our use. We agreed, among the mining industry, the ranchers, the environmentalists, the cities and towns, what land would go into wilderness, and almost 2 million acres went into wilderness last year. We have not ignored the public need to have public land set aside for public purposes, and we have not ignored through the Reid amendment the fact that the Federal Government should receive something for their land.

The other point that the Senator from Arkansas has correctly pointed out in past debates, and there are some occasions where patented land has been used for nonmining purposes, and the Senator from Nevada has addressed that. And there is a reversion clause, so if Phelps-Dodge or Joe Smith gets a 5-acre patent or a 2,000-acre patent to the mine or leases and decides to do something with it other than mining, it reverts back to the Government. Correct. And I applaud the Senator for making that argument. I wish we had done this some time ago. It has never been the purpose of the mining law or the purpose of this Senator or the mining companies that I know of, in the State of Arizona at least, to go into the resort business. They do it if they can, and it happens there because it is legal.

We are changing that with this Reid amendment before us today. He has made a positive change in the filing fee of $100 a year. The inadequacy of the $100 has been argued and we agree that we should pay something. Moratorium is a little bit different than saying let us just alter this law and make it marketable.

A moratorium says you are out of business. That means goodbye. You cannot use that land anymore. You cannot go out there and find minerals.

The hard rock mining business, I submit, is much different than particularly the oil and gas business. It costs hundreds of millions of dollars more to bring on a mine, a copper mine, than it does an oil well. And it has to be incentive enough for people to make the investment.

In my State, Phelps-Dodge has invested hundreds of millions of dollars, Zarco has invested hundreds of millions of dollars, and other companies, and they are not guaranteed that they are going to make the money, because it is an open market. The market fluctuates. They are dealing with competition, with State-owned companies, with overseas companies in Chile and other places. So it just does not happen that you have a market here that you can afford to pay a royalty.

Now we are not talking about a royalty here. And there should be a debate at sometime on this floor; perhaps we should talk about a royalty. But that should be done in the committee, just like a moratorium. It should be done in the committee and not on an appropriation bill before us today.

I am pleased to report that the underlying amendment offered by Senator REID is addressing the problems with the exception of the royalty, in my opinion, that the Senator from Arkansas has brought to this body time and time again. And yet he throws this out as of no consequence, really not an important change. This is an important change. The Senator from Arkansas ought to take the credit for it because he is entitled to credit for those four major changes that are in this particular bill.

The point was raised here that some standards have to be applied, if, in fact, there are standards. Most States have some. Arizona does not have the standards, nor does New Mexico. And so the Senator from Arkansas kind of wants to make a point, that, oh, that being the case, then there is no law governing. That is a problem for the Federal Government to address. That is a problem for us to address.

I am not adverse to Federal standards, particularly in a State that will not adopt them, including the State of Arizona. If we do not have a standard for mining, for the environment, then I am prepared to have the Federal Government—reclamation, excuse me—then I am prepared to have the Federal Government step in. I believe the State of Arizona should have a reclamation law and I hope that they will.

Mr. President, to proceed with the moratorium here would indeed be a travesty to, I believe, this Nation.

The Senator from Alabama wants some time, and I will do everything I

can, and I thank him for raising that issue, to be sure that he gets some time. The Senator wants to talk about the need of hard rock minerals coming to develop this country. If these minerals are so taxed by royalty or otherwise that it is cheaper to go to Canada, to go to Chile, to Panama, or South Africa or anyplace else, where does that put the United States?

The United States is competitive; technologically it is competitive because we have all of this Federal land.

Now the issue has been made here by the Senator from Nevada, which I will not go into, as to the amount of acres that have been made available to Americans to farm land. When all that homestead land was made available, Arizona was not a State. We do have a little bit of homestead farm land out there. But in States like Arkansas, States east of the Mississippi, primarily, but some in the West, people took advantage of that, and rightfully so. That was the Government making land available.

We are making 3 million acres available so far for patents. And there are several hundred million, almost 300 million acres, that have been made available at no cost, and rightly so, no cost because they derive an economic benefit, they give people ownership.

We are saying is this wrong? I do not think it is wrong. I think it is in the best interest of the United States.

So I hope my colleagues here will vote in support of the Reid, Domenici, DeConcini, and everybody else's amendment. It is a proper approach. It is changing the law.

We are not reneging on what we told a number of Members who supported us last year against the Senator from Arkansas. And we did prevail. We did come forth with some constructive changes. We did not do everything the Senator from Arkansas wants. Nobody gets their way around here 100 percent.

So I urge my colleagues to support the amendment of the Senator from Nevada, and I yield the floor.

Several Senators address the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Idaho [Mr. CRAIG].

Mr. CRAIG. Mr. President, let me associate myself with the remarks of the Senator from Arizona. I think he has stated the case most clearly as it relates to western public lands States and the importance of the ability to explore, to discover, and to move toward what we have historically known as a patenting process on metals, minerals, and other resources of public lands that is now being questioned by the amendment of the Senator from Arkansas, and in fact prohibited by that amendment.

If the reason for proposing a ban, a freeze, a moratorium, or a prohibition on patenting is to argue that to fail to do so is not to address issues of environmental concern, let me talk for just a moment then about the process itself, the patenting process that this Government of ours requires of that individual citizen who goes and discovers and lays claim to a resource on the public land and then attempts to work the process of saying that there is a marketable commodity there and, in so developing it, it is marketable and therefore seeks a patent.

It is not a process of great ease. Very few acres go to patent annually. Our Federal Government—because this Congress and past Congresses have suggested that there are environmental issues that we must be sensitive to—has developed a very clear and lengthy process and procedure and, in most instances, very expensive that that individual who has discovered must walk through to be able to acquire a patent.

The operator, the individual that I talk about, stakes a claim, posts a notice of location, and proceeds consistent with State and Federal law, of course, to move toward filling out the proper forms and registering that claim at a State land office. The operator files notice of location, consistent with the law, with the State BLM office and the process goes forward.

As that process goes forward, that operator must make a variety of findings that have to be acceptable to the BLM, the Bureau of Land Management, responsible for managing this patenting process, that is extremely complicated. Environmental analysis, at least to the minimum, an environmental analysis must go forward within 30 days, and may take up to 60 days, to determine how activity in that location might impact the environment. And when those determinations are made, a mining plan must be developed that would mitigate to every degree possible the impact that that activity would have on the environment.

The BLM conducts a cultural inventory, or the operator pays for a contract operator to come in, an archaeologist, to provide an inventory as it relates to the importance of any surface discovery. Archaeological discovery, cultural value, any property that might be on the National Register or sensitive to those kinds of concerns would be considered. The Threatened and Endangered Species Act, there has to be an evaluation there under section 7 of that act. The BLM must develop reclamation plans consistent with the operator. And the process goes on and on and on.

That is why every year very, very few acres are patented because, first of all, the discoverer, the operator, must know that he or she has a truly marketable commodity. They are going to expend thousands of dollars and they do not do it lightly. They do not do it because their is an ulterior motive involved. They do it because they believe they can develop the resource to the extent the product, the commodity, its ore, the refinement coming from it, is marketable and they can make a profit.

All kinds of alternatives are looked at. As I mentioned, an environmental impact statement might be required, depending on the extent and the extensiveness, as it would be determined in the mining plan. Air quality, water quality, solid waste, fisheries, wildlife, plant habitat, protection of survey monuments, cultural and, I said, archaeological concerns are all part of this process. It is not a land grab. It has never been that. And it is less so today because of the expense of making these conforming efforts to meet the BLM, the Federal Government's requirements of patent, before this land is in fee title, handed over to that operator for the purpose of he or she developing an ongoing mining operation.

My colleague from Arizona mentioned the uniqueness of some of our Western States. My State of Idaho is 64 percent owned by the citizens of this country. The State of Idaho, not only recognizing the importance of mining as a part of its overall economy, but certainly recognizing the importance of our environment, was a leader, a national leader, in the development of State mining law concerned with water quality, wildlife habitat, reclamation, has received national environmental awards for its law, and it has become the pattern for other States to look to. As a result of that, we retain a viable mining industry. But in our State, to patent and to operate, you also have to comply with State law, and that is true in a variety of other Western States.

Those are the arguments. That is ultimately the bottom line.

In the State of Idaho, there are directly 2,900 people employed. Does that sound like a large number in a State of 5 or 10 million people? In a State of a million people, that is a significant number of direct employees.

The President certainly understands the economics of the multiplier as it relates to how it impacts those rural communities that are oftentimes the jumping-off point for a mining operation in Western States.

The salaries average $28,000 a year. They are not minimum wage salaries. In a State like Idaho, that is an excellent salary. That is $55 million a year in indirect revenues, and in gross mining receipts, over $344 million a year. Mining is a significant part of the Idaho economy, and it happens almost solely on public lands.

All of those mining operations must conform with the very process that I have just laid out, the very process that our colleague for Arkansas would say stop, we do no more of.

So, therefore, I have to question the motive. Is the motive to improve the operation of mining on public lands to clarify it, to make it more environ-

mentally sound, or is it to stop it altogether?

For the sake of this country, for our economic vitality, for the well-being of the jobs in Eastern States, foundry States, manufacturing States that use the metals and minerals that come from the resource process that I just talked about, it is just as important to the working men and women of those States as it is to the State of Idaho. We have always been the producer of the new product in my State. That raw product in refined form is then shipped for further refinement across the country and around the world. That has been our history and it will remain that for some time. But our citizens a long time ago said that this Nation should use in a wise and fair way the resources of its public lands and that in that use we would want to balance them between extractive processes, like mining, or renewable takes, like logging, or just to set aside for the value of the resource from an environmental point of view, and we have done all of that.

Mining today occupies but a small window of land in the whole of the continental United States.

Mr. President, a couple of years ago, I was debating this issue in the House and a well-known consumer advocate, a national consumer advocate, came forward and said, do you realize that there has been land patented equal to the whole of the State of Rhode Island?

I said, yes, I recognize that. And in that whole of the State of Rhode Island, that is less than the size of one county in my State of Idaho.

Or, Mr. President, if you wish to put it in a different perspective, it is equal to the land size of Dulles Airport as it relates to the whole size of the State of Virginia.

We are not talking about a dramatic taking. We are talking about a very limited amount, and I am talking about all of the land patented since 1872 and since the mining law was in existence. We would be led to believe otherwise.

Great and dramatic statements are suggested on this floor as to the magnitude of the environmental impact of this law and its application. Is the land surface of Dulles Airport a significant environmental impact to the whole of the State of Virginia? I suggest it is not, and I also suggest that the some few thousands of acres a year that are patented are not great and dramatic environmental impacts to its surrounding area, not because they are there, but because of this very lengthy process and procedure and refinement that our Government now requires of that operator.

To comply with all of the environmental laws, to develop a reclamation plan and when they are finished taking of the resource and sending it out across this country to energize this economy and create jobs, when all of that is done and that resource is depleted, they must, by mining plans today under the patented requirement, reclaim the land, reshape it oftentimes into its old configuration, plant back the trees, the sagebrush, the flora, the fauna that once covered that land.

I suggest a generation from now that it would be very difficult in some instances to find where that extractive process has gone on. That is what is important and at issue here. That is really the fundamental basis of this debate. It is to block that process in the wise and proper use of that resource.

I support my colleague from Nevada and his efforts to make some revisions in the 1872 law that we think are responsible ones. I would design it in a slightly different way, but I can accept those. I can accept a need to reform to some degree, but I cannot accept a prohibition of the process, a denial of the right of Western States and public land States and the citizens of this country to effectively, responsibly, and environmentally soundly use their resources for the purposes of the well-being of this country. To do anything other than that is shortsighted at best.

Those are the issues and I wish and hope my colleagues will join with me in finalizing this issue, clarifying it, debating it as it is important to do, and, more important, recognizing that we must defeat the Bumpers amendment as it relates to a prohibition on patenting.

I yield back the remainder of my time.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS, FISCAL YEAR 1993

The PRESIDING OFFICER. Under the previous order, the pending business is laid aside.

The Senate will return to consideration of H.R. 5518, which the clerk will now report.

The bill clerk read as follows:

A bill (H.R. 5518) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1993, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Graham/Bond amendment No. 2841, to ensure the fair treatment of airline employees in connection with route transfers.

Mr. STEVENS. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. Under the previous order, there will now be 25 minutes for debate on the Graham-Bond amendment, the time equally divided and controlled in the usual form.

Mr. STEVENS. Parliamentary inquiry.

The PRESIDING OFFICER. The Chair recognizes the Senator from Alaska.

Mr. STEVENS. It is my understanding that following the votes, under the time agreement on the transportation bill, the Senate will resume consideration of the Interior appropriations bill; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. LAUTENBERG. Mr. President, we are now in a position to move ahead with an amendment proposed by the Senator from Florida, to be followed by an amendment by the Senator from Missouri. Since the debate is not ready to begin, apparently, I would suggest the absence of a quorum, with the time to be charged equally to the two proposals that we are facing.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2841

Mr. GRAHAM. Mr. President, yesterday I sent an amendment to the desk which is now, under the unanimous-consent agreement, the subject before the Senate. The amendment relates to the conditions which will apply to airline employees in the event of a transfer of an international air route.

Let me give a human face to this issue. Last December, I was working with the United Way of Miami, and one of my assignments was to go to the dislocated workers center which is based in a former Pan American administrative building. A building that had been a center for the management of an active international airline has now become the place in which workers who lost their jobs are being directed to various services that can try to get them retrained and reintegrated into the economy and help with the very serious personal economic and social problems that are a consequence of a long-time dedicated employee having lost his or her job.

During the course of that visit, Mr. President, I talked to a man who appeared to be in about his midfifties. He had been a long-time employee of Pan American and of National Airlines, which was a predecessor and had merged into Pan American a number of years ago.

He told me the history. He had risen over the years in the maintenance area of Pan American to have achieved a significant supervisory role at one of the foreign posts of Pan American, where they maintained aircraft outside the United States. He told me that when the Pan American routes were sold, that there was an understanding—at least an expectation based on representations that had been made—that all of the employees who were servic-

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ing these aircraft for Pan American would be continued when the new airline took over that route.

In fact, that is not what occurred. What occurred, as he told it to me, was that every person who worked at that maintenance center who was a national citizen of that country was retained. Every American, including himself, who had been assigned to work at that center was terminated. He, having been terminated, had returned to the United States to then see the very airline itself liquidated, and he was at the dislocated worker center seeking assistance. That is the human face behind this amendment.

There have been some representations as to what this amendment is about that I would like to challenge. One is that this amendment is inconsistent with the spirit of deregulation; that this is the American's problem, to deal with the fact that he lost his job; that lots of other people have lost their jobs as a result of airline deregulation, and that is just his tough luck.

This is not a deregulated industry. The international air routes are highly regulated. They are the subject of bilateral negotiations between the United States and the other countries to which the airline will fly.

The very reason that this amendment is being offered is to set some of the standards that our U.S. Department of Transportation will look to in making a judgment as to the appropriateness of an international route transfer. Do not confuse the issues raised in this proposal with the question of what should be the role of Government with a deregulated industry. International aviation is not a deregulated industry.

The second argument is this is some kind of radical worker protection provision, that we are intruding into what should be the free market or what should be resolved by collective bargaining.

I would like to respond to that in two ways. One, our own domestic law; and second, what is the pattern of the rest of the world?

In the Federal Aviation Act, section 102, it sets out what should be the principles to be followed in determining what the public interest is in the case of the exercise of powers of international aviation.

In subparagraph 3 of the seven subparagraphs that define what the public interest will be, it states:

> The need to encourage fair wages and equitable working conditions for air carriers.

So, in our own law, we have recognized that the treatment of employees is part of the public interest that should be taken into account in determining whether a route should be transferred.

But beyond that, Mr. President, is what is the pattern of the rest of the world? The pattern of the rest of the world is they do protect their employees. Why was it, in this example of the gentleman who talked to me last December, that all of the nationals, all of the citizens of the country in which the base was located, kept their jobs, and only the Americans were terminated?

The reason was because it probably was in a country that required that all of their citizens be protected in the case of an international route transfer. For instance, it might have been in France, which states under its law that all employment contracts remain in effect as before the transfer of the business. That is the law of France.

It might have been in Germany, which states that employees may not be terminated on account of a transfer of business, and can be dismissed only on grounds of economic conditions or reforms or methods of production.

Those examples from France and Germany are typical of the kinds of protections that are available in most of the other nations with which the United States has bilateral international commercial aviation agreements.

The fact that the United States has not been applying such a standard has therefore resulted in a savaging of Americans in the course of international route transfers. They have suffered a disproportionate—a horrendously disproportionate—number of the job losses because other nations have been looking out for their citizens. We have been essentially abandoning ours.

That is the issue. The issue is American jobs. The issue is, will America have a policy that says we are going to provide the same parity of protection for our citizens in the event of an international route transfer as is already applied in virtually every other nation with which we have international aviation agreements? I believe clearly that is in the American interest, and that this amendment should be adopted in order to place that in the American law.

I have been working very closely with my good friend and colleague from Missouri, Senator DANFORTH, who is, as we discuss this matter, facing some of the ramifications in his State, as mine, the home of major airlines. In his case, it is TWA, which is in the very prospect of major realignment.

I very much commiserate with the concern that he expresses on behalf of the thousands of citizens of his State who are affected by this.

I want to commend the Senator from Missouri for his efforts to develop a proposal that will achieve the objectives of fair treatment of American aviation employees in the event of an international route transfer, which I seek; and also achieve the objective which he seeks, which is to create the maximum probability of the maintenance of the airline and the jobs of the citizens of his State in America, who might be affected by future realignments of TWA.

So at this point, Mr. President, I yield the floor in expectation that the Senator from Missouri will be offering a second-degree amendment.

The PRESIDING OFFICER. The Chair recognizes the Senator from Missouri [Mr. DANFORTH].

Mr. DANFORTH. Mr. President, parliamentary inquiry. Under the time agreement, is it appropriate now to send an amendment to the desk?

The PRESIDING OFFICER. Senator LAUTENBERG controls the time. Until his time is disposed of, a second-degree amendment is not in order.

Mr. DANFORTH. Mr. President, I ask unanimous consent that it be in order to submit a second-degree amendment at this time, and further that the time that was allocated to the Graham amendment and to the second-degree amendment be melded together.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2883 TO AMENDMENT NO. 2841

(Purpose: To make a substitute amendment to the Graham amendment to ensure fair treatment of airline employees in connection with route transfers)

Mr. DANFORTH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Missouri [Mr. DANFORTH] proposes an amendment numbered 2883 to amendment No. 2841.

Mr. DANFORTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. . EMPLOYEE CONSIDERATIONS IN AIRLINE ROUTE TRANSFERS.

(a) IN GENERAL.—Section 401(h) of the Federal Aviation Act of 1958 (49 App. U.S.C. 1371(h)) is amended by adding at the end the following new paragraph:

"(4) Employee Considerations.—

"(A) Consideration of employment Opportunities.—In reviewing a proposed transfer of a foreign air transportation route certificate, the Secretary of Transportation shall give consideration to assuring employment opportunities for employees of the air carrier transferring the certificate. Those opportunities shall not discriminate on the basis of race, color, religion, national origin, sex, age, or disability. Consideration shall also be given to provisions for seniority integration as provided for in the seniority integration protections specified in Tiger International Seaboard Acquisition Case, CAB Docket 33712.

"(B) Employment Plan.—Upon application for approval of such a certificate transfer, the acquiring carrier shall submit its plan for employment that projects the number of employees of the transferring carrier who will be hired by the acquiring carrier, the

crafts and national origin of those employees, and a timetable for implementation of that employment plan.

"(C) Mandatory Findings.—The Secretary may approve the transfer of a foreign air transportation route certificate only if the Secretary makes specific findings that—

"(i) the employment plan submitted under subparagraph (B) does not discriminate on the basis of race, color, religion, national origin, sex, age, or disability;

"(ii) reasonable attempts have been made by the acquiring carrier to provide employment opportunities for employees of the transferring carrier; and

"(iii) the employment plan would not adversely affect the viability of the transaction.

"(D) Evaluation.—Within 1 year after the approval by the Secretary of a transfer of a foreign air transportation route certificate, the Secretary shall conduct an evaluation of the implementation of the employment plan submitted under subparagraph (B).".

(b) DUTY TO HIRE PROTECTED EMPLOYEES.—Section 43(d)(1) of the Airline Deregulation Act of 1978 is amended by striking "10" and inserting in lieu thereof "17".

(c) Effective Date.—The amendments made by subsection (a) shall apply with respect to any application filed after the date of enactment. With respect to any application filed after July 26, 1991, but before the date of enactment, the acquiring carrier must submit the employment plan specified in paragraph (B) and that the provisions in paragraph (D) apply.

Mr. DANFORTH. Mr. President, I had yesterday a meeting with my colleague from Florida, Senator GRAHAM, on this matter, to discuss the items of mutual consideration that we have. We both are very concerned about the plight of the U.S. airline industry and the plight of people who are employed by the U.S. airlines industry.

Over the past 2 years, some 50,000 airline employees have lost their jobs. Even now, in my home community of St. Louis, and in my home State of Missouri, there are 13,000 employees of TWA. Those 13,000 employees of TWA have been hanging on for dear life over a period of years, wondering about their own future—what would happen to them, what would happen to their airline and to their jobs—under various circumstances that have been considered from time to time.

We believe that there is some movement going on now with respect to the future of TWA. Employees and creditors have been in publicized negotiations with Mr. Icahn, who is the principal at TWA.

At the same time, in connection with the proposed financial arrangement between British Airways and USAir, there has been a great deal of discussion recently about the possibility of USAir acquiring substantial portions of the assets of TWA.

I have had discussions with people from USAir, and I am satisfied that if such an acquisition of assets occurs, a very substantial portion of the TWA employees would end up as employees of USAir.

Mr. President, what we need to do, as Senator GRAHAM and I have agreed, is to try to provide maximum protection for the employees and, at the same time, provided a degree of flexibility so as not to deter in any way what would be, in my view at least, a healthy arrangement involving USAir and TWA. That was the basis on which we held our discussions yesterday, and staff discussions were held last night and this morning, and those discussions culminated in the substitute which I have just sent to the desk.

The essence of this substitute provides that when applications for route transfers are submitted to the Secretary of Transportation, the Secretary of Transportation may approve the transfer of a foreign air transportation route certificate only if the Secretary makes three specific findings. Those three specific findings are: First, that the employment plan that must be submitted by the acquiring carrier does not discriminate on the basis of race, color, religion, national origin, sex, age, or disability.

The reason for this particular requirement is the reason stated by the Senator from Florida. It has been the experience of American employees of airlines, where routes have been transferred, that the American employees have lost their jobs, and the employees in other countries have kept their jobs. So we have a nondiscrimination provision in this requirement.

The second provision, the second mandatory finding for the Secretary of Transportation, is that reasonable attempts have been made by the acquiring carrier to provide employment opportunities for employees of the transferring carrier; reasonable attempts made by the acquiring carrier to provide employment opportunities for the employees of the transferring carrier. This is designed to provide stability and to provide a degree of assurance that the Secretary of Transportation is looking out for the interests of the employees of the transferring carrier.

Finally, a finding that the employment plan would not adversely affect the viability of the transaction. The reason for this provision is to provide the degree of flexibility which we think is necessary in order to maximize the possibility of creating a viable successor to TWA, especially if USAir continues to show an interest in reaching some sort of an agreement with respect to TWA.

So that is the essence, Mr. President, of the substitute amendment that has been sent to the desk.

The PRESIDING OFFICER. Who yields time?

Mr. GRAHAM. Mr. President, I suggest the absence of a quorum and ask that the time be equally divided between the parties.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KERREY). Without objection, it is so ordered.

The Senator from New Jersey has 6½ minutes.

Mr. LAUTENBERG. I thank the Chair.

Mr. President, I note that the various proponents of an agreement, the two proponents, the Senators from Missouri and Florida, are close to effecting a compromise that would put this matter to rest very quickly. I am hopeful that that is the case because, frankly, I hope that we can give the kind of protection that is necessary when you have a merger of two airlines, that those who have labored long and hard for the airline being merged are entitled, it is my belief, to retain their jobs and retain an opportunity to continue to make a living and hope for progress in the future

So I am encouraged by the good will and by the thought that has entered into these discussions. I hope that we will soon have a resolution.

I remind those who are within earshot that at 1:15 p.m. we are, by unanimous consent agreement yesterday, to go on to another bill.

In the interim I yield to my colleague from New York, Senator D'AMATO.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. D'AMATO. Mr. President, I ask unanimous consent that I be added as a cosponsor to the amendment of my colleague and friend, Senator GRAHAM.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, I have been supportive of this concept. I am deeply appreciative of the efforts of Senator GRAHAM and Senator DANFORTH to work out a compromise that will attempt to safeguard American aviation jobs where they can and should be. We should assure that American jobs are not simply transferred over to a foreign labor requirement. And that indeed is what is taking place in many cases.

I am hopeful that this can become the law of the land so that we can provide the kind of opportunity and, yes, the kind of protection against excesses where a labor force is unfairly discriminated against, and in this case our American labor force because they are Americans. That does not make sense. That is wrong. That penalizes this Nation and its people.

Mr. President, I am pleased to add my comments to those of my friends, Senator BOB GRAHAM and Senator DANFORTH. I introduced a similar measure with Senator GRAHAM on July 26, 1991, (S. 1565).

This amendment directs the Department of Transportation to assure that

the jobs needed to operate airline routes become part of the package when route transfer applications are approved. It would safeguard the jobs of experienced employees, it would not add unreasonable costs, it's fair and it makes sense.

In New York State, the demise of Pan American Airlines in December 1991 threw thousands of people out of work. Nearly 4,700 have filed for unemployment in the State. Without this legislation, thousands of experienced aviation employees at air carriers with shaky finances will be at risk to join the unemployment rolls throughout our Nation.

Airlines are not being sold intact, but instead their route systems are being sold piecemeal to the highest bidder. Such dismantling allows other airlines to cherry pick the best components of an airline while totally ignoring the most valuable asset—the employees. Generally, when companies merge or are acquired by other companies, employees are brought into the fold of the purchasing company. In the airline business this provides a skilled work force that can smoothly continue fleet services. Route transfers should be handled in a similar manner.

Airline routes are a public asset to be operated in the public interest. The Department of Transportation must approve route transfers from one owner to another, and may attach conditions to safeguard the public interest. DOT must bring labor, management, and government together to plan the best possible route transfer decisions. Other countries safeguard their aviation jobs, and we should assure that American jobs are not lost to accommodate foreign labor requirements.

The proud history of commercial aviation in this country has drawn strength from the special commitment and zeal of its employees. It is time to treat them in a fair and equitable manner.

Again I am hopeful that we will be able to have this amendment and the resulting compromise enacted into law.

I yield the floor.

Mr. LAUTENBERG. Mr. President, I would just note that in my statement I talked about another bill. It is another amendment, not another bill. We are on the Transportation bill and intend to stay there until we complete it at 2:15. So we are again hopeful that, within a very few minutes, we will have the resolution of the amendment presently under discussion.

Until then, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2883, AS MODIFIED

Mr. DANFORTH. Mr. President, I send a modification to the desk of my second-degree amendment.

The PRESIDING OFFICER. If there is no objection, the amendment is so modified.

The amendment (No. 2883), as modified, reads as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. . EMPLOYEE CONSIDERATIONS IN AIRLINE ROUTE TRANSFERS.

(a) IN GENERAL.—Section 401(h) of the Federal Aviation Act of 1958 (49 App. U.S.C. 1371(h)) is amended by adding at the end the following new paragraph:

"(4) EMPLOYEE CONSIDERATIONS.—

"(A) CONSIDERATION OF EMPLOYMENT OPPORTUNITIES.—In reviewing a proposed transfer of a foreign air transportation route certificate, the Secretary of Transportation in order to encourage fair wages and equitable working conditions for air carriers, shall give priority consideration to assuring employment opportunities for employees of the air carrier transferring the certificate. Those opportunities shall not discriminate on the basis of race, color, religion, national origin, sex, age, or disability. Consideration shall also be given to provisions for seniority integration, as provided for in the seniority integration protections specified in Tiger International Seaboard Acquisition Case, CAB Docket 33712.

"(B) EMPLOYMENT PLAN.—Upon application for approval of such a certificate transfer, the acquiring carrier shall submit its plan for employment that projects the number of employees of the transferring carrier who will be hired by the acquiring carrier, the crafts and national origin of those employees, and a timetable for implementation of that employment plan.

"(C) MANDATORY FINDINGS.—The Secretary may approve the transfer of a foreign air transportation route certificate only if the Secretary makes specific findings that—

"(i) the employment plan submitted under subparagraph (B) does not discriminate on the basis of race, color, religion, national origin, sex, age, or disability;

"(ii) reasonable attempts have been made by the acquiring carrier to provide employment opportunities for employees of the transferring carrier; and

"(iii) the employment plan would not adversely affect the viability of the transaction.

"(D) EVALUATION.—Within 1 year after the approval by the Secretary of a transfer of a foreign air transportation route certificate, the Secretary shall conduct an evaluation of the implementation of the employment plan submitted under subparagraph (B).".

(b) DUTY TO HIRE PROTECTED EMPLOYEES.—Section 43(d)(1) of the Airline Deregulation Act of 1978 is amended by striking "10" and inserting in lieu thereof "17".

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to any application filed after the date of enactment with resect to any application filed after July 26, 1991, but before the date of enactment, the acquiring carrier must submit the employment plan specified in paragraph (B) and that the provisions in paragraph (D) apply.

Mr. DANFORTH. Mr. President, I think we are prepared for action on the second-degree amendment which, if agreed to, would then leave us with the first-degree amendment, as amended, for consideration at 2:15.

The PRESIDING OFFICER. Is there objection to voting on the second-degree amendment?

Mr. GRAHAM. Mr. President, I strongly support the second-degree amendment. I thank and commend the Senator from Missouri, as well as his colleague Senator BOND, who was an original cosponsor of the amendment, for their efforts in shaping this in a manner that will be constructive for all parties.

Parliamentary inquiry, Mr. President. I think there had been a rollcall vote ordered on the second-degree amendment. Is that correct?

The PRESIDING OFFICER. No rollcall vote has been ordered.

Mr. GRAHAM. So at this point, we could adopt by voice vote the second-degree amendment and leave the adoption of the amendment, as amended, in until the appointed hour of 2:15.

The PRESIDING OFFICER. It has been granted to do that.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I just want to express my sincere thanks to the Senator from Florida, who took the lead on a very, very important provision that is of vital concern to many people in my State and across the Nation. This is an area in which a great deal of uncertainty and unrest has arisen.

I express appreciation also to my senior colleague for his expertise in this area. I believe he has led us to fashion a compromise which will achieve the goals which we sought when Senator GRAHAM and I proposed this particular amendment, and does so without having the possible harmful side effects.

I express my sincere thanks to those Members, plus the manager and ranking member of the bill.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I commend the Senator from Florida [Mr. GRAHAM] and the Senator from Missouri [Mr. DANFORTH] for working out a compromise that meets the concerns originally expressed by Senator GRAHAM.

Though we have had an indication from the administration that they have concerns about this—I think probably concerns is a little mild, but I do not know whether or not they would take the ultimate action of vetoing it as we earlier threatened, not today, but yesterday. I hope they would not. This is a compromise worked out by a very thoughtful, arduous process.

We are prepared to accept the amendment proposed by the Senator from Missouri, and we will await the hour of 2:15 to see whether or not we have a rollcall vote.

The PRESIDING OFFICER. The time on the amendment has expired.

The question is on agreeing to the amendment.

The amendment (No. 2883), as modified, was agreed to.

Mr. D'AMATO. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LAUTENBERG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LAUTENBERG. Mr. President, will the Chair state, for the benefit of all, the status of the debate at this point?

The PRESIDING OFFICER. Under the previous order, the Senator from Missouri [Mr. BOND] was to be recognized to offer an amendment.

Mr. LAUTENBERG. And the time set aside for the discussion of that amendment is 1 hour, as I understand it.

The PRESIDING OFFICER. The time between now and 2:15 will be equally divided.

Mr. LAUTENBERG. I see the Senator from Missouri is here. The time is divided such so that the Senator from Missouri has a half-hour and the Senator from New Jersey has a half-hour; is that correct?

The PRESIDING OFFICER. The Senator is correct.

The PRESIDING OFFICER. Under the previous order the Senator from Missouri is recognized to offer an amendment.

Mr. GRAHAM. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. As I understand it, the amendment that the Senator from Missouri will offer is an amendment to the committee amendment. Has the committee amendment been offered? Is the committee amendment available to be amended?

The PRESIDING OFFICER. The committee amendment is pending to the bill.

Mr. GRAHAM. It is the pending business?

The PRESIDING OFFICER. Yes.

The Senator from Missouri is recognized.

AMENDMENT NO. 2884

(Purpose: To remove the minimum allocation program from Federal-aid highways limitation on obligations)

Mr. BOND. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Missouri [Mr. BOND], for himself, Mr. NICKLES, Mr. GRAHAM, Mr. WARNER, Mr. LEVIN, Mr. MCCAIN, Mr. HEFLIN, Mr. COATS, Mr. KASTEN, and Mr. BOREN, proposes an amendment numbered 2884.

Mr. BOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 19, line 17, strike "$18,006,250,000" and insert "$16,899,250,000".

On page 57, strike line 21 through line 25.

On page 58, strike line 1 through "distribute" on line 4.

On page 60, line 20, after "Code;" insert "obligations under section 157 of title 23, United States Code;".

Mr. BOND. Mr. President, in order to avoid any confusion, I now ask unanimous consent that it be in order to offer this amendment and that it not be subject to division.

The PRESIDING OFFICER. Is there objection?

Mr. D'AMATO. Reserving the right to object, and I do not object, but I am not certain, because I have not seen the amendment, whether or not I can be in a position to agree to that in terms of the division.

So I ask my colleague and friend if he would at least give us an opportunity to review what the implications of that might be and then we can move on.

While I do not, in general, raise objections to requests coming from fellow Members and in particular my colleague, I have to say in this case I have to understand what the implications in this case may be.

Might I suggest we start the amendment and my colleague can renew his request after we had opportunity to consult with the majority and others?

The PRESIDING OFFICER. The amendment is pending.

Mr. LAUTENBERG. Mr. President, if it helps alleviate the confusion, I have had the advantage of seeing the amendment. It is my understanding from the Parliamentarian that in order for the amendment to move ahead that we have to give it consent. I urge my colleague from New York to take a quick look as the amendment is being discussed so that we can give our approval very shortly.

Mr. D'AMATO. Let me raise this point again. I am not certain, could the Senator restate the request? The thing that concerns me is that as it relates to not being subject to division; is that correct?

The PRESIDING OFFICER. That is the unanimous-consent request.

The Senator from Missouri.

Mr. BOND. Mr. President, I thank my colleague from New Jersey for pointing it out.

This is a difficult procedural situation which we are in. To assure we do not run afoul of procedure, I have asked unanimous consent that it be in order to consider.

Second, the reason that I ask for a division is that it is a very simple amendment, only six lines long, each one of them dealing with a different part of the bill. The reason I ask that it not be subject to division, if you divided it, then the scheme would fall apart. It was a suggestion for procedural purposes that I asked that unanimous-consent request.

Mr. D'AMATO. I have no objection with the Senator explaining what his request was as relating to the withholding of the division. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Missouri is recognized.

Mr. BOND. Mr. President, I thank the chairman and the ranking member.

The amendment I have sent to the desk is on behalf of myself, Senator GRAHAM, Senator NICKLES, Senator WARNER, Senator LEVIN, Senator KASTEN, Senator HEFLIN, and Senator BOREN.

Our amendment, Mr. President, would simply return the minimum allocation under the highway program to current law. For the first time since the program's creation, the committee bill places it under the so-called obligation ceiling, thereby restricting the funding available to the minimum obligation States.

The amendment would offset the additional spending needed to fund the MA program by reducing the obligation ceiling by about $1 billion. But I want to emphasize again this amendment would restore current law for the program. It is the committee bill which has changed the provisions that were agreed to in ISTEA in the authorization for highway funding.

My colleagues know what a long and difficult time we had coming to an equitable agreement among the States. I want to maintain that agreement from last year. We think that fairness and equity and principle are utmost in maintaining the deal that was arrived at last year.

In the language of Federal highway programs, our States are known as minimum allocation States. That means our annual highway trust fund share is much less than those donor States contribute to the trust fund every year. The rest of the States receive close to or even more than the amount they contribute to the trust fund annually.

The minimum allocation program was created in 1982 to correct a longstanding inequity in highway program funding. Our distinguished colleague from Texas, Senator BENTSEN, amended the Federal highway program to require our States receive the minimum allocation of 85 percent of what is contributed in gasoline taxes to the trust fund. These funds are to be distributed to shortchanged States after the formula based funds for the regular programs were distributed. To ensure that those funds are received by minimum allocation States, they are not subjected to the obligation ceiling, a spending limit applied to the formula programs.

Again, the purpose of the program is to help make up for what was not re-

ceived under the outdated formula based programs. The imposition of a spending limit would defeat the purpose and, thus, was always exempt from it.

In addition, it would constrain the ability of States receiving minimum allocations in this year should they be unable to spend funds already allocated to those States and already accounted for in the budget procedures from spending them if their projects are not ready to go in ensuing years.

This was a hardfought battle last year. We realized that when we came to an agreement, it would be a compromise that perhaps could not make everybody happy. It was one which we could all agree that the program funds would be distributed outside the obligation ceiling.

We discussed on the floor at that time and we were assured that all members of the authorizing committee would stand by that agreement. I believe that this amendment merely restores that agreement and, frankly, we do not know what the full funding impact would be because we have not received a definitive answer from the Federal Highway Administration.

Yes, some States would lose; yes, some States will gain. But the important point is that we made a deal last year and we want to return to the provisions of that deal.

I urge our colleagues to support this amendment.

I reserve the remainder of my time.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, we are now fully immersed in a discussion about what happens under the committee bill and what happens under the proposal by the Senator from Missouri.

I would like to take a few minutes to explain what the committee has done in this bill with regard to the section 157 program, which is the minimum allocation program.

But first I think it is important that we look at the funding constraints that the Transportation Appropriations Subcommittee was operating under. Because of the budgetary firewalls, which I and many others tried to break down, we simply could not fund all of the programs under our jurisdiction at their fully authorized levels.

That cannot be a surprise to anybody here. It should not be news to any Senator that the Appropriations Committee is rarely in the position to fund the fully authorized level for any program. The section 157 program is no exception. This was true of FAA operations. It was the case for transit capital and Amtrak. It was true for the formula highway program. And for the purposes of equity, it had to be the same for the minimum allocation.

In fact, it should be noted that a number of important programs in this bill, including almost all of Amtrak, Coast Guard acquisitions and the Airport Improvement Program are funded below last year's level.

When we received the President's proposed budget for fiscal year 1993, we noted that it drastically shortchanged a number of programs that many of my colleagues on both sides of the aisle and from all areas of the country support.

The bill that we received from the House corrected some of the inequities, but by no means all of them. As we have in the past, my colleagues on the subcommittee and I—and I include the ranking member, Senator D'AMATO, who has worked very hard to help us get this transportation bill before us—worked to restore balance to the Transportation budget. But, we still had the budgetary constraints to deal with.

We have our 602(b) allocation, and we cannot bring a bill to the Senate floor unless we stay within that allocation. That is a simple fact of life.

In making decisions about how to distribute scarce dollars among the various programs in our bill, we looked carefully at how funds are being spent. According to the Federal Highway Administration, as we approach the end of the fiscal year, States have actually obligated only half of the funds available to them under the section 157 and demonstration project programs. Obligation rates under the regular formula programs, which benefit each and every State, are better.

Not every State gets section 157 money, but each and every State receives money under formulas approved last fall in ISTEA, under the regular Federal-aid Highway Program.

For every dollar that is made available to the section 157 and demonstration project programs and not actually obligated, that is a dollar that is not available for the formula programs. So what we are talking about, Mr. President, is the size of the pie. The pie is being reduced by virtue of necessity. The pie is smaller, and thus we had to cap the minimum allocations.

I did not want, Mr. President, to do that. The committee did not want to cap the section 157 or demonstration projects. For that matter, we did not want to cap the regular formula programs, or Coast Guard expenses, or the FAA either. But the budgetary realities forced us to do so.

In the highway area, we had to set an obligation ceiling below the fully authorized level, and by doing so we were able to provide funds for programs that the administration would have left high and dry, programs such as transit, which benefit areas from Los Angeles to Salt Lake City, to Phoenix, AZ, to St. Louis, MO, Miami, FL, metropolitan Washington, New York, and New Jersey.

Frankly, the relatively small amounts made available by imposing these caps went a long way toward meeting other needs without seriously hurting States.

I hope my colleagues will pay careful attention to what I can about to say. The Federal Highway Administration prepared tables showing how each of the States fared under the caps we had to impose and compared that to the scenario under the Bond Amendment.

All in all, 30 States, plus the District of Columbia and Puerto Rico, received slightly more funds overall under the committee's bill than under the amendment proposed by the Senator from Missouri. That is, by capping section 157 and ISTEA demonstration projects and putting the savings into formula programs, 30 States come out ahead.

Of the States that receive less funding, the differences are relatively small. In fact, for most of the impacted States, the difference is less than 2 percent. For example, Missouri gets 1 percent less under the committee bill than under the Bond amendment. And because of the balance that we were able to restore to the transportation bill because of caps on various programs, important transit projects in St. Louis, MO, can be funded.

Impact on other States that have traditionally been concerned about section 157 is similarly small. For North Carolina, it is just over 1 percent; for Wisconsin, it is less than 1.5 percent, and for Michigan, again, barely over 1 percent. And in the case of every State that is impacted by the cap on section 157 and demonstration projects, there are other areas in this bill where they benefit because of the balance we were able to restore to this bill.

Look, for example, at the State of Virginia. Traditionally, it has been a State concerned about minimum allocation. Under the committee bill, Virginia does almost $4 million better than it would under the proposed Bond amendment. Under the committee bill, it gets more formula funds, which can be put to work immediately.

With the balance we were able to restore because of caps, we were able to do things like fully funding the Washington Metro System, which I know is of great significance to the State of Virginia. Without caps, Virginia stands to lose highway money overall and to lose help for Metro. That is what a vote against the committee bill would mean.

Further, it is important to note that no State loses contract authority available to it under ISTEA. I repeat, there is not one State which loses the contract authority that was authorized in ISTEA.

To make it even clearer, Mr. President, that money goes into a bank account to be drawn upon in the future. So even if it is not obligated in the cur-

rent year, it is available. I repeat what I said earlier, that in many States the funds that were available have not been obligated—in fact, about half have not been obligated.

What has been capped in the committee bill is the ability to obligate the funds in this fiscal year, 1993. That is the reality of living within a budget amendment that was developed and agreed to by a majority in 1990. It has been my sincere hope for a long time now, and I hope that next year we will have another opportunity, when the budget walls come down, to provide more funds.

I find it slightly more than ironic that those who protested removing the budget walls between defense, foreign aid, and domestic spending are among the very people who today stand on this floor and demand to know why it is that they cannot get a higher share.

Well, it is a little late for that. We cannot go back. But for next year I hope people here will recognize those budget walls must come down. The world has changed. That may surprise some in this Chamber, but it has. The fact is we do not need the same defense distributions that we had before and we ought to be investing them in the well-being of our society and development of our economy.

But as long as we are operating under the current budget agreement, we simply cannot provide more. And given that reality, caps on virtually every program in this bill are an unfortunate necessity.

I urge my colleagues to oppose this amendment and support the committee bill.

Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator from New Jersey has 14 minutes and 30 seconds.

Mr. LAUTENBERG. Mr. President, I will extend the debate marginally by reading from this list, so that we will have it in the RECORD.

Based on tables provided this morning by the FHWA, the Federal Highway Administration, here is a list of States that would be hurt by the Bond amendment and do better under the committee bill: Alaska, Colorado, Connecticut, Delaware, Hawaii, Idaho, Illinois, Iowa, Kansas, Maine, Massachusetts, Minnesota, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Oregon, Pennsylvania, Rhode Island, South Carolina, Utah, Vermont, Virginia, the State of Washington, West Virginia, Wyoming, plus the District of Columbia, and Puerto Rico.

So by voting for the Bond amendment, Senators from these 30 States would be voting for less highway money for their States.

I hope, Mr. President, that will be convincing enough for my colleagues to oppose this amendment and support the committee bill.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. LAUTENBERG. Mr. President, I note the absence of a quorum, and I ask that the time be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The legislative clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, I am pleased to allocate 10 minutes of time to my distinguished colleague from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. Mr. President, one of the most famous citizens of the State of my colleague, Senator BOND, is Mr. Yogi Berra, who I believe grew up in St. Louis. He is, of course, in addition to being a great baseball player, one of America's greatest philosophers.

Mr. LAUTENBERG. Mr. President, if the Senator will yield, Yogi Berra lives in New Jersey, has for many years, and is a neighbor of mine in Montclair, NJ. Just so the RECORD reflects where Yogi developed his philosophy and his views of the world.

Mr. BOND. If the Senator will yield, he was born in his native State of Missouri.

Mr. GRAHAM. Mr. President, the great philosopher, Yogi Berra, says it is deja vu all over again, and it is.

For those of you who do not want to listen to this debate, just collect the Records of the Senate for last fall, when we were debating the Surface Transportation Act, because you are about to hear it all over again.

What we are talking about here today is fundamental fairness. To put it in an old Southern expression: A deal is a deal. Less than a year ago, in the Surface Transportation Act, after a long and arduous negotiation, we struck a deal. The deal was that 22 States of America, representing over half the population of America, would accept an egregiously unfair formula for the distribution of funds if they were assured that they would get back at least 90 percent of the money that they contributed to the fund. That was the deal.

Now, less than a year later, in an obscure provision in an appropriations bill, we are about to undo that deal by providing for the first time that the funds that come to those 22 aggrieved States will now be placed under an obligation ceiling so that they will not get the 90 percent that they bargained for, that they agreed to. That is the essence of this debate.

Why do we have a minimum allocation program at all? We have a minimum allocation program because we have a very distorted basic allocation formula. What are some of the elements of that distortion? It will be hard for the people of America to believe this, but what I am about to say is true. The United States of America is going to distribute highway funds from now until the year 1997 based on the 1980 census. Most Americans would find that to be so shocking as to be beyond belief.

You would also be interested to know that as part of this formula, we are going to take into account the number of postal roads that existed in America back around the time of the First World War.

Those are some of the factors that have caused 22 States in the country to be so disadvantaged in terms of this allocation formula; that a minimum of at least 90 percent of what they sent to Washington, it was assured to them, they would receive unencumbered by any obligation ceiling.

There are some peculiarities in those 22 States. By a trick of political alchemy that is hard to believe, every one of the Southern States—all 11 States, as well as border States, such as Kentucky and Missouri—are in that list of 22 States. Some of the poorest States in America are the States that are most disadvantaged by this formula.

Virtually every growth State is disadvantaged. Who were the three fastest-growing major States in America last year in the 1990 census? They were California; they were Florida; they were Texas. Who are three of the 22 States that make up this group that have been so mistreated as to require a minimum allocation? They are California; they are Florida; they are Texas.

So we have the minimum allocation as a means of giving some redress to a formula that is patently irrational and unfair.

Are there already penalties inflicted against these 22 States that make up the minimum allocation pool? Yes. What are some of those penalties that already exist? One, since the 1987 highway bill, those 22 States have been effectively precluded from competing for discretionary funds. What does that mean? Typically, at the end of a Federal fiscal year, there will be some formula funds that, for various reasons, States have been unable to fully utilize. Those funds then come back into a pool, and States are allowed to compete.

While I was Governor of Florida, we built a lot of our Interstate System because we were able to compete for those funds at the end of the fiscal year. We were ready to spend it because we had urgent growth-related needs and were able to use funds that other States could not use, an eminently rational process.

Since 1987, the 22 States that are in the minimum allocation pool effec-

tively cannot compete anymore because every dollar they get through that discretionary fund is a dollar subtracted from the minimum allocation. No other group of States is subject to that discrimination except those who already have been so discriminated against that they were put into the minimum allocation pool.

The second discrimination is that while the 90 percent formula applies to funds that are currently being placed into the highway trust fund, that highway trust fund over the 1980's grew to a level of approximately $15 billion to $20 billion. In 1991, the surface Transportation Act will be spending down that surplus.

Obviously, that surplus was the result of funds coming from Missouri, coming from New Jersey, coming from Florida, from all of the States. Does the 90 percent apply, to assure us that we will get back our fair share of that money that we already have put into the fund? No. We only get the 90 percent of the new money that we put in.

So our States are already discriminated against by the irrational formula, by limitations in our ability to contribute, to compete for discretionary funds, and by the fact that we do not get back an equitable percentage of the money that we already put into the fund.

Now, on top of that, we are proposing to impose an obligation ceiling for the first time that this has ever occurred on those minimum allocation States.

Mr. President, I think any standard of basic fairness would say that this is not an equitable manner to distribute billions of dollars of Federal funds, which all Americans have paid, back to the individual States which have the responsibility of meeting the highway needs of those millions of Americans.

The issue here is not a budgetary cap issue. In fact, if you will look at the bill on page 19, you will notice that the House obligation ceiling is $16.690 billion. The Senate increases that to $18.6 billion. So rather than being constrained and having to cut the obligation ceiling, we have increased the obligation ceiling by approximately $1.3 billion in the Senate Appropriations Committee recommendations.

The issue is one of allocation. We are breaking the deal that assured the minimum allocation States of at least 90 percent of the funds that they sent into the Highway Trust Fund.

The issue is also who should decide? The Senator from New Jersey points to the fact that, oh, yes, we cut North Carolina by 1 or 2 percent, but there is a little money in there for a mass transit project. As I understand the Surface Transportation Act, if North Carolina got the money, it would have the flexibility to decide whether it wanted to use it for highways or for mass transit. That was one of the most compelling selling points of the 1991 Surface Transportation Act.

Why do we let North Carolina make the decision as to whether it wants to spend the money, respect the compromise negotiated in 1991, fully fund the minimum allocation States, as the law requires, and then let the individual States with the money that is available to them decide what are that States' priorities?

Mr. President, this is a very serious amendment, because it goes to the essence of fairness, to the essence of credibility of a decision, once made, to be carried out in the future. If this amendment is not adopted, if we were to succumb to the practice that says that the only thing that counts is getting a few more dollars for my State by this kind of method, then I suggest that we are succumbing to H.L. Mencken's observation about politicians:

> If politicians did what their constituents wanted, and their constituents happen to be cannibals, then the politician would gain favor by feeding them missionaries.

I do not want us to get to the point where the only standard we operate on here is who can "feed missionaries to our constituents."

We have a deal that was made in 1991. It is now 1992. I think we should faithfully carry out these requirements. Thank you.

The PRESIDING OFFICER. Who yields time?

Mr. LEVIN. Mr. President, will the Senator from Missouri yield me 5 minutes?

Mr. BOND. Mr. President, may I inquire how much time remains?

The PRESIDING OFFICER. The Senator from Missouri has 10 minutes, 30 seconds. The Senator from New Jersey has 12 minutes, 58 seconds.

Mr. BOND. I am happy to yield 5 minutes to my colleague from Michigan.

Mr. LEVIN. Mr. President, I support the amendment of the Senator from Missouri for just the most basic of reasons. There is nothing more fundamental, more direct, more simple, more human, hopefully more compelling, than fundamental fairness.

We can argue in this Chamber—and we have—for weeks about the formulas, the technicalities, the criteria on whether or not we should consider the land areas, whether there ought to be a minimum for small States, whether we ought to look at postal road mileage, something which was relevant 70 years ago and not now. We can spend a week arguing this, and we have.

But it all comes down to this: After that argument was over and that debate was over, we finally agreed to a minimum allocation of 90 percent. My State has lost $1 billion in the last 5 years because we sent much more to Washington under the gas tax formula than we got back. Do we have less of a need for highway funds than other States? We do not. But we get less back, because of formulas designed in committees where we are not represented. That is what it comes down to.

We worked out, finally, excruciatingly, a formula to give us 90 percent back. It is called a minimum allocation. It is minimal fairness. This bill in front of us undoes what it took many Members of this Senate literally weeks to put together not so long ago.

Some people say, well, my gosh, if Wyoming got only as many dollars back as it put in, we would not have an interstate system, and they are right. But that does not justify a small State guaranteeing a postal road criterion and all the other criteria which are put into these formulas in order to benefit some States who have the heavier representation on the committee. That is what it comes down to in the eyes of those of us who lose money year after year, not for relevant, legitimate reasons—and there are some—but purely on the basis of politically who is there in the right committees to write the formula.

We have already argued those. We already thought we had reached an understanding. That understanding has been modified in this bill. It is that understanding which the Senator from Missouri seeks to restore.

My good friend from New Jersey is right. If this amendment passes, there are going to be a number of States who are going to get money than if the amendment does not pass. He is absolutely correct. It is also true, however, that if we had a 95 percent guarantee, the donor States, those who give a lot more than they get, would do better than they are. But we do not have 95-percent guarantee. We have a 90-percent minimum allocation.

The Senator from New Jersey is indisputably correct in that, if the Bond amendment is agreed to, there are going to be some States that will get less, but what they will be getting is exactly what we agreed to in this body in the highway bill. So the question is whether or not we will maintain that fundamental understanding and agreement which we reached. That is the bottom line here. That is what it all comes down to. That is why some of us feel very, very strongly on this issue.

I just ask one question of my friend from New Jersey, if I could interrupt his conversation, and forgive me for that.

Under the bill, it is written that there will be a reduction, as I understand it, of $900 million in the minimum allocation formula. It means that, effectively, the 90-percent minimum allocation is going to be reduced.

The PRESIDING OFFICER. The Senator's 5 minutes has expired.

Mr. LEVIN. I have not asked the question yet.

Mr. LAUTENBERG. It sure sounded like a question.

Mr. LEVIN. I made a statement of fact that the minimum allocation limitation is going to be reduced by $900 million.

Mr. LAUTENBERG. That is incorrect. It is $200 million. I do not yield the time.

Mr. LEVIN. Let me ask my question——

The PRESIDING OFFICER. Who yields time to the Senator?

Mr. BOND. Mr. President, I yield 30 seconds, but we are running out of time.

Mr. LEVIN. I stand corrected. It is $207 million. The Senator from New Jersey is correct. That effectively reduces the 90-percent minimum allocation formula.

My question is: To what number does that $207 million reduction in the minimum allocation formula reduce the 90-percent minimum allocation to?

Mr. LAUTENBERG. The answer is, no, it does not. It does provide, as I earlier said, a credit for the 90 percent that each State is entitled to under an understanding reached a couple of years ago.

The fact is that, however, because of the budget limitation that we have, we had to bring down the top and, thusly, the categories underneath that top. Michigan, Missouri, all can count on getting that money. That is their money. It is, unfortunately, not available in this fiscal year. I am reminded that the money can be fully obligated under a series of accounts under the total obligation ceiling.

So the minimum allocation can be met. However, just like we capped Coast Guard, FAA, and other accounts, we had to cap the minimum allocations ceiling. They are all merged into a total. In fact, while the allocation of funds under minimum allocation could conceivably have been greater, it would have been at the expense of other things. So the obligation is that the contract authority is there, and the States can allocate it as they see fit.

Mr. LEVIN. I thank the Chair.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I yield 1 minute to the distinguished senior Senator from Oklahoma.

Mr. BOREN. I thank the Chair and the Senator. I will be brief and to the point. Last year, when we were debating the authorization bill, we had a commitment, which was that the donor States would no longer be treated unfairly; we would no longer continue to send our money to Washington and have it reallocated in an unfair fashion so that we support transportation systems in other States when we have our own pressing needs at home in our own States and communities.

In our own States, in our own communities, that commitment was made. And now, because of the way this bill is structured my State, for example, will lose another $4.6 million.

This is simply unfair. This has to do with keeping commitments. Those commitments should be honored. The commitments made in the authorization bill should be honored. And, therefore, we should pass the Bond amendment, the amendment offered by the Senator from Missouri, and others, which I am proud to join. It is time to keep the commitments that were made. If we do not keep them, we imperil the authorization process in the future.

It is simply a matter of doing what is right and accountable. Year after year the taxpayers in States like mine are subsidizing and funding programs in other States. It is time for that to end. It is time for those commitments to be honored. I strongly support the amendment, and I thank my friend for yielding to me.

Mr. BOND. I thank the Senator from Oklahoma.

Mr. President, I yield 1 minute to the Senator from Oklahoma.

The PRESIDING OFFICER (Mr. SANFORD). The Senator from Oklahoma.

Mr. NICKLES. Mr. President, we find ourselves again debating the fairness of the distribution of highway funds to the donor States. This is the same issue fought on the Intermodal Surface Transportation Efficiency Act [ISTEA] legislation last year. This debate bogged down the Senate on this important legislation and I will tell you, it will hinder the timely passage of this legislation if we do not keep to last year's agreement.

It is of grave concern to me that the Appropriations Subcommittee on Transportation decided to place the minimum allocation funding as contained in ISTEA under the obligation ceiling. As a result, donor States are once again faced with losing a significant portion of their highway dollars, dollars that were promised them in the ISTEA authorization.

This creates significant problems for donor States such as Oklahoma, which had planned on having the additional moneys available. These States have made their planning decisions based on the ISTEA authorized amounts, and this legislation threatens to force those States to develop new plans that will delay previous priorities. In fact, according to transportation officials in my State, Oklahoma's 5-year plan will have to be extended to a 7- or 8-year plan if the minimum allocation fund aren't removed from the cap.

Furthermore, it is my understanding that any carryover funds that the donor States have at the end of fiscal year 1993 will be lost because they will be considered under the obligation ceiling. What is more, the Department of Transportation informs me that these funds will end up going to the donee States. This was not our agreement last year, the minimum allocation funds were specifically created to help bring donor States up to a fairer level of funding, closer to their gasoline tax contributions into the highway trust fund account. This legislation we are considering breaks that agreement and will cost all 22 donor States money that they had anticipated and planned on being available.

Mr. President, it is essential that we keep the ISTEA agreement and that we pass the Bond-Nickles amendment. It is simply unfair to keep donor States fighting for their fair share of funding and it is doubly unfair to keep these States guessing as to how much money they can anticipate having available as they make their planning decisions. We must keep to our word, reverse this unfairness and assist the donor States in moving forward to meet their transportation and employment goals.

Mr. President, I wish to compliment Senator BOND from Missouri for his leadership, and also Senator GRAHAM for his leadership on this issue. As my colleague, Senator BOREN, just stated, we are here for a little equity. We fought this battle with the highway bill, we fought for a better allocation and more fair allocation, we fought for our State, and we spent hours trying to come up with something that would be fair.

We came up with a minimum allocation which was supposed to equalize States and for those States that had been donor States we were supposed to get a dollar for dollar into the program. That is what we were told, and it was stated repeatedly on the floor. Unfortunately, that is not the case as is coming out of the Transportation appropriations bill.

The amendment of the Senator from Missouri helps to remedy that. It does not remedy it in its entirety, so this Senator is not even totally pleased with it. But at least it would help restore fairness to the system and it is certainly not fair when we see increases going out for tremendous mass transit subsidies.

The PRESIDING OFFICER. The time yielded to the Senator has expired.

Mr. NICKLES. Mr. President I ask unanimous consent for an additional 30 seconds.

The PRESIDING OFFICER. Who yields time?

Mr. BOND. Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. Three minutes and 30 seconds.

Mr. BOND. I yield 30 seconds.

Mr. NICKLES. I thank my friend and colleague from Missouri.

Mr. President, what we are seeking is equity. We have not had fairness in this allocation. If we do not have restoration for the minimum allocation funds I think we are doing real injustice not being consistent with the bill

we passed in the highway bill nor are we being consistent with the commitments that were made when we passed the highway bill.

So I urge my colleagues not just from the dollars involved but for a matter of equity that we would support the amendment of the Senator from Missouri.

The PRESIDING OFFICER. Who yields time?

Mr. LAUTENBERG. Mr. President, I suggest the absence of a quorum to be charged equally to both parties.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, I yield 1 minute to the Senator from Virginia.

Mr. WARNER. Mr. President, I was a member of the conference committee last year in the Intermodal Surface Transportation Efficiency Act. It was a long and arduous conference.

We sat in the majority leader's office and it was clear that the purpose of that conference was to once and for all try and dig ourselves out of the past, away from this inequitable formula predicated on old census reports and other criteria, and try and strike a blow for fairness among the 50 States of our great Nation.

Day after day we labored, and finally we did reach that compromise. And this afternoon we are about to witness a vote to set aside all of that work.

The impact of this provision on donor States is significant. According to the Congressional Budget Office, the limitation of $900 million in minimum allocation payments to States in fiscal year 1993 will result in a loss of $200 million to donor States next year alone.

For Virginia, preliminary estimates provided by the Federal Highway Administration indicate a loss of $1.9 million next year.

Mr. President, it is important to recall why the minimum allocation issue is so critical to donor States. It is simply an issue of fairness and equity.

Since 1982 minimum allocation has been the only guarantee to donor States to give them a reasonable expectation of the percentage of return they will receive annually from the highway trust fund. This provision is essential to enable States to plan effectively to meet their highway needs.

It is also important to recall why the minimum allocation program even exists. By 1982 it became clear that the current formulas used to apportion Federal highway trust fund moneys were inequitable. There was a growing number of States receiving far less from the trust fund than their highway users paid into the fund. Despite efforts in the Congress in 1982 to modify these outdated formulas to more closely reflect highway use, the formulas remained unchanged.

In recognition of the inequitable distribution of highway funds, the 1982 surface transportation authorization bill included the minimum allocation formula. This program provided that no State would receive less than an 85-percent return from the highway trust fund.

In the reauthorization of the surface transportation bill last year, the formulas again were the primary focus of the congressional debate. I fought for updating these formulas to reflect the significant increase in highway use in more populated regions of this country, but once again the formulas remained unchanged.

In preparation for the next reauthorization of surface transportation programs in 1997, ISTEA required another study of the funding formulas by the General Accounting Office and other entities. It is hoped that the Congress will use these recommendations to modernize the formula system of distributing highway trust fund dollars.

I supported this study to give the Congress a foundation of fact on which a program can be fairly devised in 1997. It is becoming increasing clear, however, that if the Senate wants to change these formulas each year, we may need further, independent review of this matter. I recommend that a bipartisan Presidential commission be appointed to examine these matters in order to craft a consensus on the allocation of these critical highway dollars.

So I will, hopefully, gain support from others, if this amendment loses, and next year address the concept of an impartial body trying to fabricate a fair formula for the future of this Nation's transportation system.

As the Senate will recall, after 9 months of intensive discussions by the Senate and the subsequent conference with the House, the 6-year reauthorization bill was the last piece of legislation passed by the Senate before the adjournment of the 1st session of the 102d Congress.

Mr. President, I was pleased to support the conference report on the ISTEA last year because I believed progress was made to give the donor States a greater return on their contributions.

If the Senate accepts the provisions of the Appropriations Committee, we will be taking a giant step backward.

Throughout the debate on minimum allocation—the only safety net for donor States—the Congress recognized that the percentage return to States should be increased from 85 to 90 percent.

The authorization bill expressly states that minimum allocation would be outside the obligation ceiling as it has been traditionally calculated by the Federal Highway Administration.

The limitations on minimum allocation, as provided in the Transportation appropriations bill, violates this hard-fought agreement reached only 9 months ago.

Once again, minimum allocation States will be penalized and will not receive a fair return on the dollars their citizens pay into the highway trust fund.

Once again, minimum allocation States will not receive a 90-percent return on every $1 contributed to the trust fund, a cornerstone of the Intermodal Surface Transportation Efficiency Act [ISTEA].

Mr. President, I urge my colleagues to abide by the 90-percent minimum allocation, as authorized, and support the Bond amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BOND. Mr. President, I yield myself such time as I have remaining, and that is?

The PRESIDING OFFICER. A minute and a half.

Mr. BOND. I thank the Chair and colleagues who have spoken on behalf of this amendment. As they pointed out, last year we struck a deal. The deal was struck after a long and hard fight, because highways, bridges, and roads are vital to our States, they are vital to economic growth, they are vital to our rural economies, and they are vital for safety.

These are funds coming from highway taxes paid by citizens in our State. And I would point out to the distinguished manager, this minimum allocation of funds is carried over, this minimum allocation is kept under an obligation ceiling; they cannot spend those funds as long as they are kept under an obligation ceiling.

This is one of the reasons a number of States may lose money that already has been appropriated and allocated under minimum allocation. They will not be able to use them if they are not used in the year to which they are obligated.

I believe that this vote is critically important to determine whether once we strike a deal in this body, regardless of whatever the charts may say—the charts from highways are from la la land, everybody can get one; I have not seen the latest charts—we have to stay with principle. And that is why I ask my colleagues for support of this vitally important amendment to restore the fairness achieved in the original highway bill.

I thank the Chair and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. BOND. Did the Chair say there is not a sufficient second?

The PRESIDING OFFICER. Yes.

Mr. BOND. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from New Jersey has 7 minutes left.

Mr. LAUTENBERG. Is that the only time remaining, Mr. President?

The PRESIDING OFFICER. Yes.

Mr. LAUTENBERG. Does the Senator seek recognition?

Mr. KASTEN. I wish to speak on behalf of the amendment. If the Senator would be good enough to yield me 1 minute.

Mr. LAUTENBERG. Mr. President, I am happy to yield to the Senator from Wisconsin for 1 minute.

Mr. KASTEN. Mr. President, I rise as a cosponsor in support of the amendment of the Senator from Missouri. This amendment would remove from the obligation ceiling the moneys that donor States receive under the highway program to guarantee at least a reasonable return of their tax dollars.

These minimum allocation dollars are moneys that the donor States, such as Wisconsin, receive to try to make up in some small measure for the fact that the formulas still do not treat our States with the equity we deserve. From 1956 to last year Wisconsin had paid $1.2 billion more in taxes than we got back.

In last year's Intermodal Surface Transportation Efficiency Act—commonly referred to as ISTEA—we once again made the decision that minimum allocation moneys should not be included under the obligation ceilings. This policy continues the treatment that minimum allocation has had under the 1982 and 1987 surface transportation bills as well. While donor States made headway under ISTEA, including MA under the obligation ceiling would erase some of those gains.

Last year the Senate Transportation appropriations bill also included MA moneys under the obligation ceiling, however the provision was struck in conference.

So, through two recent, in-depth considerations of this issue the policy has been to keep MA out of the obligation ceilings.

Wisconsin's Department of Transportation informs me that unless minimum allocation is treated as it has been for the last 11 years—that is, not under the obligation ceiling—that my State would lose on the order of $14 million in the next fiscal year.

Though I appreciate the viewpoint that MA is another outlay, the reason for its existence is to make up for formula deficiencies. As a Wisconsin Department of Transportation official said, to include minimum allocation dollars under the obligation ceiling is akin to taxing food stamps.

Because this amendment continues the treatment that these funds have received for the last 11 years, I believe that no major cash management problems should be encountered. I support the amendment of the Senator from Missouri and I urge its adoption.

Mr. LAUTENBERG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. I ask unanimous consent that the Senator from California [Mr. SEYMOUR] be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COATS. Mr. President, today we are revisiting an issue that is of great importance to some 20 to 30 so-called "donor States." These are States who for nearly half a century have been making large donations to the highway trust fund through taxes but have been receiving woefully inadequate amounts of funding in return.

At the end of last year as we worked to approve a conference report on the 6-year highway authorization bill, donor States were assured that we would be happy with the final compromise. That we would receive a greater return on our tax dollar.

In fact, Mr. President, when a final agreement did reach the floor at the last minute—with no real time provided to review the numbers and assess the real impact on our home States—most donor States once again found themselves shortchanged.

With past and future contributions to the highway trust fund taken into account, Indiana received a return of 84 cents on the dollar—lower than that passed in either the original House or Senate bill and only a penny per dollar higher than the year previous to the passage of this bill.

To add insult to injury, the bill included an increase in the gas tax.

In an attempt to appease donor States, the new highway authorization did guarantee a minimum 90 percent allocation to States of new and future contributions to the trust fund through the gasoline tax. Although this in no way compensated for past contributions to the trust fund, this was a guarantee made to minimum allocation States a mere 9 months ago.

As we all know, the minimum allocation pot has always been outside budget ceilings as these funds come specifically from the highway trust fund.

The framers of this appropriations bill, however, have violated this agreement by placing minimum allocation funds under the obligation ceiling. The total minimum allocation pot has been capped at $900 million regardless of what donor States deserve.

This action will shortchange minimum allocation States by an estimated $207 million. Coincidentally, mass transit projects in the Northeastern States will be receiving an increase in funding similar to this shortfall.

I should note that for fiscal year 1992, Indiana received $81 million in minimum allocation funding. The exact figures on minimum allocation funding for fiscal year 1993 will not be available for several months yet, but the current estimates places the amount due to Indiana at about $64.4 million. Under this bill, the obligation limit for a minimum allocation for Indiana for fiscal year 1993 will be approximately $52 million—a reduction of $29 million from fiscal year 1992 and a reduction of $12 million from the fiscal year 1993 ISTEA estimate.

In addition, the formula for demonstration projects authorized under the Intermodal Surface Transportation Efficiency Act has also been placed under a ceiling. While under the agreement reached in the authorization bill, the State of Indiana should expect approximately $18 million for demonstration projects for fiscal year 1993. With this new formula we can now expect an estimated $9.5 million—or a near 50 percent reduction.

It is important to note here that a significant number of Members of the other body basically signed off on the transportation authorization bill because they were promised specific funding levels for demonstration projects in their States.

Now, I understand that the bill contains $274.8 million in new funding for demonstration projects outside of ISTEA including $8 million for much needed corridor improvements for the city of Columbus where we have seen highway deaths resulting from a badly managed traffic flow. Of course this funding is welcome—and well deserved for a State that has averaged a return of about 75 cents on the dollar in its highway contributions since 1956. Yet in doing so, other important projects have been wrongfully and, in my view, needlessly shortchanged.

As unhappy as I was with the outcome of last year's authorization bill, I am simply astounded that donor States are being further taken advantage of in this legislation. As pleased as I am with the acknowledgement of a few important projects in Indiana, there is no way that I can support passage of this bill as drafted.

Mr. President, when will the enormous demands that have been made—and continue to be made—on donor States stop? Why are we already violating an agreement that was made to minimum allocation States less than a year ago?

Hoosiers have paid far more than their fair share to help those States

who did not have the ability to raise their own adequate contributions for the construction of the Interstate Highway System.

But the Interstate System is now, for all practical purposes complete and States like Indiana have their own needs which have been sorely neglected in deference to roads in the Northeast and West.

It is time to recognize the decades of contributions States like Indiana have made to other regions in the country and stop the highway robbery. I urge my colleagues to support the Bond amendment to remove the minimum allocation provisions from the ceilings and keep its commitment under ISTEA to donor States.

Mr. BUMPERS. Mr. President, I would like to engage my colleague from Arkansas, Senator PRYOR, in a colloquy about a problem which continues to afflict our State. The Senate version of the Transportation appropriations bill includes the minimum allocation program under the obligation ceiling, which is the spending limit on highway funding imposed by the bill. The effect of the ceiling is to prevent States from spending all allocated highway funds in a given year. Senator GRAHAM and Senator BOND are offering an amendment to remove the minimum allocation from the obligation limit and I rise to say that Senator PRYOR and I support this amendment.

The Senate Transportation appropriations bill changes the current law, which expressly excludes the minimum allocation program from the obligation ceiling. The Intermodal Surface Transportation Efficiency Act of 1991 [ISTEA] excluded the minimum allocation program from the cap in order to ensure that our State and other donor States receive a minimum return on the dollars we send to the trust fund each year. If the minimum allocation formula remains under the obligation ceiling, Arkansas' funding will be cut by $7,641,037 each year. Needless to say, this will be devastating to our small rural State.

Mr. PRYOR. Mr. President, I agree with Senator BUMPERS that the current proposal within the Transportation appropriations bill is a dealbreaker. The donor States, which rely upon the minimum allocation formula remaining outside of the obligation ceiling, spent weeks on the floor last year fighting for fairness under the new highway authorization bill. Our group of States has been shortchanged for years under the outdated highway program formulas, and those inequities continue under ISTEA because the outdated formulas were not altered. As a result of our fight, we were assured by the authors of the bill that ISTEA would protect us by excluding the minimum allocation formulas from the obligation ceiling. The provision in the appropriations bill is a direct violation of that guarantee and reduces our minimum allocation funding.

Mr. BUMPERS. Mr. President, let me add to the Senator's statement that not only does the current proposal fly in the face of what was agreed to previously but also it negatively impacts 22 States. Proponents of the pending legislation, who are, indeed, from donee States, which receive more money from the highway trust fund than they pay into it each year, point out that the donor or minimum allocation States continue to have only 44 votes. Obviously, this is never enough to shut off the debate between donor and donee States in order to deal appropriately with the unfair funding formulas which continue to plague donor States. The Senator and I certainly hope that this issue will be favorably resolved when this bill reaches the conference committee between the House and the Senate.

Mr. PRYOR. Mr. President, the Senator has plainly outlined the problem facing Arkansas and the other donor States. I rise to say that we strongly support the amendment offered by Senator BOND and Senator GRAHAM.

Mr. SEYMOUR. Mr. President, I rise to lend my strong support to the Bond amendment to this Transportation appropriations bill.

Absent adoption of the Bond amendment, the Senate will be reneging on the historic ISTEA agreement that was reached with the State less than 1 year ago.

Members of this body—namely, the donor States—voted for the ISTEA compromise on the basis that the minimum allocation [MA] would be set at 90 percent and that it would not be subject to obligational limitations. That was the agreement, and it was enacted in recognition of the fact that the donor States have been shortchanged for years under the outdated formulas that have been used to distribute trust fund dollars among the States.

It was precisely these provisions that brought reason to the distribution of highway trust funds. Will the very same Senate that made these promises only 9 months ago demonstrate that it had no intention of following through?

The purpose of the minimum allocation is to ensure that the donor States receive a minimum annual return on the dollars they contribute to the trust fund. The program is designed to make up for the inequity that exists in the current allocation formulas. Absent the bond amendment, California's minimum allocation funds will be cut.

Mr. President, the California Department of Transportation has reviewed this legislation. CALTRANS informs me that California could lose as much as $36 million during the fiscal year if minimum allocation adjustments are counted against obligational limits.

Like every other State, Mr. President, California is working very hard to meet its transportation needs. And with an economy flat on its back this is perhaps the worst time imaginable to elimiate job creating funds for California's. Infrastructure is a critical element in any sound economy, and California needs more, not less, to protect its economic health, bust gridlock, and create jobs.

I know the Transportation Appropriations Subcommittee is working under severe limitations. However, we cannot make up for this shortfall at the expense of the donor States.

Mr. President, the Bond amendment simply affirms the ISTEA agreement, and I urge its adoption.

Mr. CHAFEE. Mr. President, last December 18, the President signed into law the Intermodal Surface Transportation Efficiency Act of 1991, now known as ISTEA. That law represents a new approach to transportation and includes new programs and partnerships that will result in an efficient and high quality transportation system for our country.

The coalition that came together to make ISTEA possible produced a very good law. A delicate balance was achieved that addressed the needs of sparsely populated rural areas as well as densely populated urban areas. ISTEA provides flexibility so that those parts of the country that are experiencing growth can meet their needs with new transit or highway facilities. Similarly, with this flexibility, States that have older transportation facilities have the ability to fix and maintain what they already have.

An important part of the agreement that produced ISTEA was providing a balance between the so-called donor and donee States. The donor States have historically contributed more revenues to the highway trust fund than they have received back from the program.

The 1991 law included a new minimum allocation provision. The new law improves the return the donor States receive from the highway program compared to the revenues they contribute to the highway trust fund.

At the same time, Congress recognized the importance of providing an adequate transportation program for the donee States as well.

The transportation program provides significant national benefits and it is important that all States are provided a fair and equitable amount of money for an efficient transportation program. I believe the 1991 Surface Transportation Act achieved this goal.

For this reason, I will continue to support the decision reached by Congress in the transportation law last year—that the minimum allocation funds should be outside the obligation ceiling.

Mr. GRASSLEY. Mr. President, I would like to discuss the transit section of H.R. 5518, the fiscal year 1993

Transportation appropriations legislation, specifically, the severe cutbacks in the formula portion of the transit section.

Mr. President, under the programs of the Federal Transit Administration, section 3 discretionary capital grants assist communities in obtaining or improving capital equipment and facilities needed for public and private urban mass transportation. It should be noted that 85 percent of the funds in the section 3 program are spent by the 15 largest transit systems in the country.

Section 9 is a formula-apportioned program for urbanized areas of over 50,000 population. Recipients of funds in urbanized areas of over 200,000 are designated by the Governors of the States, local officials, and public transit operators. Urbanized areas with populations from 50,000 to 200,000 have their funds transferred through the Governor of the State. Funds under section 9 are available for capital, operating, and planning assistance.

The section 18 program dispenses capital and operating assistance for public transportation in nonurbanized areas under 50,000 population. Funds are allocated by formula to the Governor and the program is administered at the State level by the designated transit agency. Eligible activities include operating assistance, planning, administrative and program development activities, coordination of public transportation programs, vehicle acquisition, and other capital investments in support of general or special transit services.

Under the Senate Transportation appropriations bill before us today, formula funding under the transit section of this bill would take a severe cut compared to fiscal year 1992 appropriations, a 15.3-percent cut to be exact. At the same time, the section 3 discretionary program receives a 28.5-percent increase.

If these funding levels are adopted by the Congress, it will mean service cutbacks throughout my home State of Iowa, as well as other States across the country. The elderly and disabled would be especially impacted in many parts of Iowa. It is particularly disconcerting that these cutbacks come at a time when transit systems are trying to comply with mandates directed by the Americans with Disabilities Act.

Further, sections 9 and 18 are the only sources available to transit systems for operating expenses. These funds have been drastically cut over the last several years and further cuts will surely result in further service reductions in Iowa.

I would urge that when this legislation moves into conference with the House, that the conferees attempt to provide funding for the transit formula portion of this legislation closer to the funding level provided in fiscal year 1992. At the very least, I would hope that the funding level would be closer to that provided in the House Transportation appropriations legislation.

MINIMUM ALLOCATION FUNDING

Mr. LEVIN. Mr. President, I would like to ask the floor manager of the bill a few questions regarding demonstration projects and minimum allocation. My question is whether putting the minimum allocation and demonstration projects included in the Intermodal Surface Transportation Efficiency Act [ISTEA] under this bill's obligation ceiling alters the base upon which minimum allocation funding is calculated?

Mr. LAUTENBERG. No, it does not.

Mr. LEVIN. On November 27, 1991, just prior to final passage of the conference report on ISTEA, Senator MOYNIHAN and I entered into a colloquy on this issue. I said the following: "I also understand that the 90 percent minimum allocation is not reduced by demonstration project funding." He replied: "That is correct." Does this appropriations bill change this?

Mr. LAUTENBERG. No, it does not. This bill does not alter the way the FHWA calculates the amount of contract authority a State is entitled to under the minimum allocation program.

Mr. LEVIN. In other words, whether or not the cap on minimum allocation is removed, minimum allocations will not be reduced by any demonstration project funding a State receives.

Mr. LAUTENBERG. That is correct.

Mr. LEVIN. I thank my colleague.

Mr. MACK. Mr. President, I hope that my colleagues on the floor will join me in supporting the Bond-Nickles amendment to strike the proposed change which applies obligation limitations to minimum allocation funding.

Like every Senator here, I want to help my State provide safe and efficient roads and highways. That job is particularly difficult for Florida, because Florida grows by nearly 1,000 people a day. My State's transportation network has to grow quickly and efficiently to meet the need of a population that has grown by one-third since 1980.

But the provision in this bill which applies obligation limits to minimum allocation funding makes Florida's transportation task much harder—and unnecessarily so.

Florida has made significant efforts to meet its transportation needs. In recent years, the Florida legislature passed the largest ever comprehensive transportation package in the State's history. Florida ranks second among all States in State funding dedicated for transportation. Yet, with our strong commitment, Florida's transportation needs still outstrip available resources.

One of the primary reasons Florida falls short in meeting its funding needs is because Florida gets back only a small fraction of the moneys it contributes to the Federal Highway Trust Fund. A 1990 Florida DOT study reported that Florida received 53 cents for each dollar it contributed in Federal taxes.

In late 1991, the Congress passed the Intermodal Surface Transportation Efficiency Act [ISTEA]. Many long hours went into completing this legislation which would provide for our Nation's transportation needs for the better part of the next decade. At that time, an agreement was reached and supported by a large majority in Congress. It concluded that States such as Florida which receive an inequitable share of their contribution to the highway trust fund would get a 5-percent increase in their minimum allocation.

The Minimum Allocation Program was enacted as part of the Surface Transportation Assistance Act of 1982 to address the fact that certain States were consistently receiving far less funding than they contributed to the highway trust fund.

Most States receive more funding from the highway trust fund than they contribute. Further, they receive additional funding for discretionary projects. Minimum allocation States, on the other hand, get back less than they contribute to the highway trust fund and the bulk of the discretionary funding which they receive is counted against their minimum allocation.

Minimum allocation States would have liked to get back more of the money they contributed to the highway trust fund. They would have liked to receive discretionary funding without it counting against their base funding—a privilege which is enjoyed by every other State. However, the battle was fought and an agreement was reached when this body passed the Intermodal Surface Transportation Efficiency Act of 1991.

Now, irrespective of that agreement, an obligations limit has been applied to minimum allocation. As a result, approximately $200 million has been diverted from donor States, those who fall under minimum allocation, to other programs. For the State of Florida, it has been estimated that this will result in a gross loss of approximately $25 million.

This bill breaks the agreement under ISTEA and that is wrong. But more importantly, it is wrong because donor States like Florida—States that pay far more into the highway trust fund than they get back—are shortchanged again.

Mr. KOHL. Mr. President, I want to join my colleagues in expressing strong objection to the portion of the fiscal year 1993 Transportation appropriations bill which reneges on the agreements made with donor States such as mine.

Last year, when the Senate debated the Intermodal Surface Transportation

Efficiency Act, one of the most hotly contested issues was funding equity among States. At that time, I joined with my colleagues in opposing any continuation of transportation funding allocations that did not treat States equitably. In recognition of these concerns, the ISTEA bill established the Minimum Allocation Program. This program compensates States that pay more into the highway trust fund than they receive in highway grants. The ISTEA law so fully recognized the importance of restoring equity in transportation funding, that it clearly exempted the Minimum Allocation Program from the obligation ceiling. This promise was absolutely necessary to assure that the equity achieved through this bill was not eroded through the appropriations process.

Mr. President, last year's Transportation appropriation bill kept this important promise made to donor States. This year, the House transportation appropriation bill comports with that promise. But the Senate committee bill completely reneges on that promise.

I believe it is fair to say that many of the donor State Senators would never have supported passage of the ISTEA bill if they had not been assured of greater equity among States. To go back on that agreement, as this appropriations bill does, is to reopen that debate, and in my opinion, it is irresponsible. I urge my colleagues to vote in favor of the Bond amendment.

The PRESIDING OFFICER. All time on the amendment has expired.

The question occurs on the amendment of the Senator from Missouri [Mr. BOND]. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. BURDICK] and the Senator from Tennessee [Mr. GORE] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. HATCH] is necessarily absent.

I further announce that the Senator from North Carolina [Mr. HELMS] is absent due to illness.

On this vote, the Senator from North Carolina [Mr. HELMS] is paired with the Senator from Utah [Mr. HATCH]. If present and voting, the Senator from North Carolina would vote "yea" and the Senator from Utah would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 39, nays 57, as follows:

[Rollcall Vote No. 170 Leg.]

YEAS—39

Bentsen	Chafee	Danforth
Bond	Coats	DeConcini
Boren	Cochran	Dole
Bumpers	Cranston	Durenberger
Ford	Levin	Packwood
Fowler	Lott	Pryor
Glenn	Lugar	Riegle
Graham	Mack	Robb
Gramm	McCain	Sanford
Heflin	McConnell	Sasser
Kassebaum	Metzenbaum	Seymour
Kasten	Nickles	Shelby
Kohl	Nunn	Warner

NAYS—57

Adams	Exon	Murkowski
Akaka	Garn	Pell
Baucus	Gorton	Pressler
Biden	Grassley	Reid
Bingaman	Harkin	Rockefeller
Bradley	Hatfield	Roth
Breaux	Hollings	Rudman
Brown	Inouye	Sarbanes
Bryan	Jeffords	Simon
Burns	Johnston	Simpson
Byrd	Kennedy	Smith
Cohen	Kerrey	Specter
Conrad	Kerry	Stevens
Craig	Lautenberg	Symms
D'Amato	Leahy	Thurmond
Daschle	Lieberman	Wallop
Dixon	Mikulski	Wellstone
Dodd	Mitchell	Wirth
Domenici	Moynihan	Wofford

NOT VOTING—4

Burdick	Hatch
Gore	Helms

So the amendment (No. 2884) was rejected.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question occurs on the committee amendment.

Mr. GRAHAM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. LAUTENBERG. Mr. President, reserving the right to object, and I probably will not object. I understand I cannot reserve the right to object, so I object to the calling off of the quorum.

The PRESIDING OFFICER. The clerk will continue the call of the roll.

The legislative clerk continued the call of the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

If there is no further debate, the question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. D'AMATO. Mr. President, I move to reconsider the vote.

Mr. LAUTENBERG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2841

The PRESIDING OFFICER. The question occurs on the Graham amendment, as amended.

Mr. D'AMATO. Mr. President, may I ask unanimous consent that on the Graham amendment that we have a voice vote and vitiate the yeas and nays?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

The question occurs on the amendment, as amended.

Mr. GRAHAM. Mr. President, I ask unanimous consent that Senator METZENBAUM be listed as an original cosponsor of the Graham amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment, as amended.

The amendment (No. 2841), as amended was agreed to.

Mr. GRAHAM. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments to the bill?

AMENDMENTS NOS. 2885 THROUGH 2887

Mr. LAUTENBERG. Mr. President, I have some technical amendments, one by Senator CRANSTON on California projects, one by Senator METZENBAUM on the causes of pilot error, and one on section 3 bus funds. They are agreed to by the minority. We send three technical amendments to the desk and ask for their consideration en bloc.

The PRESIDING OFFICER (Mr. LIEBERMAN). The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG] proposes amendments numbered 2885, 2886 and 2887 en bloc.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 2885

At the appropriate place in the bill, insert the following new section:

SEC. . LOS ANGELES METRO RAIL.

(a) REPLACEMENT OF GRANTEES.—Effective on the date of enactment of this Act, the Los Angeles County Transportation Commission (hereinafter in this section referred to as the "Commission") shall replace the Southern California Rapid Transit District (hereinafter in this section referred to as the "SCRTD") as the federal grantee for the Minimum Operable Segment One (hereinafter in this section referred to as "MOS–1") of the Los Angeles Metro Rail project. The MOS–1 Full Funding Grant Agreement dated August 27, 1986, and all other MOS–1 grant documents required under federal law, shall be deemed to be amended, effective on the date of enactment of this Act, to designate the Commission as MOS–1 grantee; and all rights and obligations as MOS–1 grantee shall be transferred to the Commission on that date in accordance with the Memorandum of Understanding for the Transfer of MOS–1 Project, entered into by and between the Commission and SCRTD on June 24, 1992. No action by the Secretary of Transpor-

tation or other administrative action shall be required in order for the Commission to proceed to act in its capacity as MOS–1 grantee pursuant to this section.

(b) OBLIGATIONS OF COMMISSION.—Upon becoming the MOS–1 grantee under this section, the Commission shall be responsible for completion of the MOS–1 Project in accordance with the terms and conditions of the MOS–1 Full Funding Grant Agreement and other applicable grant agreements and in compliance with all applicable federal laws and regulations. In addition, the Commission shall remain responsible for all MOS–1 obligations arising prior to the date of enactment of this Act, in accordance with the Commission's Guarantee of Performance to the United States dated April 3, 1990.

(c) AVAILABILITY OF FUNDS.—All funds previously obligated to SCRTD under section 3 and section 9 of the Federal Transit Act, and unexpended on the date of enactment of this Act, shall be transferred to the Commission on such date and shall be available to the Commission to pay costs associated with the completion of MOS–1. Notwithstanding any other provision of law, neither the replacement of grantees under subsection (a) nor the transfer of funds under this subsection shall be considered to be a change in project scope or otherwise result in the deobligation of prior year funds, and all funds transferred to the Commission under this subsection shall be charged to the original appropriation and shall remain available until expended.

(d) DEFINITION.—For purposes of this section:

(1) the terms "Los Angeles County Transportation Commission" and "Commission" shall include any successor to the Commission that is established by or pursuant to State law; and

(2) the terms "Southern California Rapid Transit District" and "SCRTD" shall include any successor to SCRTD that is established by or pursuant to State law.

(e) Of the funds made available for the Los Angeles Metro Rail project, 45.45 per centum shall be for Minimum Operable Segment–2 and 54.55 per centum shall be for Minimum Operable Segment–3 of Metro Rail. Of the amounts for Minimum Operable Segment–3, an equal one-third share shall be provided for each of the three lines described in section 3034(i)(3) of the Intermodal Surface Transportation Efficiency Act.

At the appropriate place in the bill, insert the following new section:

SEC. . SAN JOSE-GILROY-HOLLISTER COMMUTER RAIL PROJECT.

Section 3035(h) of the Intermodal Surface Transportation Efficiency Act of 1991 is amended by striking in the second sentence all after "one-time" and inserting in lieu thereof the following: "purchase of additional trackage rights and/or purchase of right-of-way between the existing termini in San Jose and Gilroy, California. In connection with the purchase of such additional trackage rights and/or purchase of right-of-way, the Secretary shall either approve a finding of no significant impact, or approve a final environmental impact statement and issue a record of decision no later than July 1, 1994. No later than August 1, 1994, the Secretary shall negotiate and sign a grant agreement with the Santa Clara County Transit District which includes the funds made available under this section for the purchase of additional trackage rights and/or purchase of right-of-way.

SPECIAL RULE FOR TMAS THAT DO NOT CONTAIN AN URBANIZED AREA OVER 200,000 POPULATION

On page 109, line 15, insert "(1)" before "Funds".

On page 109, line 21, insert the following:

"(2) Section 9(m)(1) of the Federal Transit Act (49 U.S.C. App. 1607(a)(m)(1)) is amended striking in the first sentence "urbanized areas of 200,000 or more population" and inserting the following: "transportation management areas established under section 8(i)".

AMENDMENT NO. 2886

On page 12, line 23, strike the period and insert in lieu thereof: ": *Provided further*, That of the funds available under this heading, $500,000 shall be made available to the Cleveland Clinic Foundation to initiate a definitive study to evaluate the human factors related to and/or inherent in pilot error. This study will be carried out in conjunction with Ohio State University.".

AMENDMENT NO. 2887

At the appropriate place at the end of title III, insert:

"SEC. . Notwithstanding any other provision of law, funds made available under this Act and previous Acts for the intermodal fuel cell bus facility program under the Federal Transit Administration's Discretionary Grants account shall be transferred to that agency's Transit Planning and Research account and be administered in accordance with section 6 of the Federal Transit Act, as amended."

Mr. LAUTENBERG. Mr. President, I urge adoption of the amendments en bloc.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendments en bloc.

The amendments (No. 2885, No. 2886, and No. 2887) en bloc were agreed to.

Mr. D'AMATO. Mr. President, I move to reconsider the vote.

Mr. LAUTENBERG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I know of no further amendments to be offered on the bill, and I ask for third reading.

Mr. D'AMATO. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

EASTERN PARKWAY—LAWRENCE, KS

Mr. DOLE. Mr. President, the city of Lawrence is situated in the fastest growing traffic corridor in the State of Kansas—the K–10 highway corridor connecting Lawrence to the southern suburbs of Kansas City. The population of Douglas County, where the city is located, grew 21 percent between 1980 and 1990. Lawrence, itself, grew 24 percent over the same period.

Presently, there is no direct route from K–10 to two of the major highways in the region—U.S. Highway 40 and U.S. Highway 59. A proposed eastern parkway would provide a direct link and eliminate highway traffic through neighborhood streets. Estimated cost of this road is $15.5 million.

The city has lined up $7.3 million for the project—$4 million from a bond issue and $3.3 million from last year's highway reauthorization bill. In my May letter to the Transportation Subcommittee, I included a request for $8.2 million to complete this important project. That's not a huge amount for a highway demonstration project, but it is enough to get this essential project built.

Unfortunately, the committee was unable to fund this request in this year's appropriations bill. Senator LAUTENBERG and Senator D'AMATO had requests of 3 billion dollars for 300 million dollars' worth of highway demonstration project funds. In order to stay within their budget, they had to come up with some tough rules to narrow the field of requests. This project did not make the cut.

If I was chairman of the Transportation Subcommittee, I might have come up with different criteria, but I am not chairman of the subcommittee. And as the Republican leader, I know how annoying Monday morning quarterbacks can be. The chairman and the ranking member faced tough choices this year and have done their very best to meet their allocations without breaking the budget agreement. They deserve a lot of praise for their efforts.

It is going to be very tough to obtain additional funds, but I will work with Congresswoman JAN MEYERS and the Transportation Appropriations Subcommittee to fund this high priority project in the House and Senate Transportation appropriations conference. The House plays by different rules than the Senate, and sometimes unusual things take place in conference. I hope the conference will take a second look at this project and include it in their report.

ASR–9 RADAR SYSTEMS

Ms. MIKULSKI. Would the chairman yield for a question?

Mr. LAUTENBERG. I am happy to yield to the Senator from Maryland.

Ms. MIKULSKI. Mr. President, I want to ask a question regarding the FAA's procurement of the airport surveillance radars commonly called ASR–9's. As the chairman knows, these radar systems have been at the core of our efforts to enhance the safety of our national airspace system. The air traffic controllers have enthusiastically endorsed the ASR–9 as crucial new equipment, and many airports around the country are eagerly awaiting installation of these systems.

Although the FAA has a requirement for more than 100 new units, and has a contract option for 11 units, they have not sought procurement funding in their budget request for fiscal year 1993. Similarly, in fiscal year 1992, they requested no funds, but later decided to seek reprogramming approval for four systems in May of this year. With the chairman's support, this reprogramming was approved.

The Senator has included very favorable report language in the committee's report on this legislation discussing the nationwide interest in these systems and expressing concern that the production line for the systems not close. I understand that because of the chairman's severe budget constraints, it was not possible to add on funding for procurement of ASR–9 radar systems in the Senate bill. However, should the outlook change and additional funds become available in the conference committee, would it be the chairman's intention to consider providing additional funding for procurement of ASR–9 radar systems in fiscal year 1993?

Mr. LAUTENBERG. As the Senator knows, our budget allocation made it very difficult to fund the many meritorious programs which we would like to fund this year. However, if it becomes possible, I would certainly consider adding funding for procurement of ASR–9 radar systems in the conference committee. I am aware that these systems are highly prized by air traffic controllers and desired by many more airports than there are currently available systems.

Ms. MIKULSKI. I thank the distinguished chairman. Would it also be the chairman's suggestion to FAA that they carefully consider whether they have funding available to procure additional ASR–9 radar systems in fiscal year 1993 to avoid a shutdown of production for these popular and reliable radar systems?

Mr. LAUTENBERG. Yes, I would encourage FAA to see whether they can reprogram any funds for that purpose in fiscal year 1993.

Ms. MIKULSKI. I thank the chairman very much, and I yield the floor.

GREENVILLE-SPARTANBURG AIRPORT

Mr. HOLLINGS. Mr. President, I want to ensure that an airport in South Carolina is included on the list of airports that should receive a priority for airport improvement funds. I ask that you include language in the conference report about the critical need for funding for the airport, the Greenville-Spartanburg Airport, in Greer, SC.

Mr. LAUTENBERG. I received the Senator's request for this project and want to let him know I support the request and will work to include it in the conference report.

CURRITUCK MID-SOUND BRIDGE

Mr. SANFORD. I would like to discuss with the distinguished Senator from New Jersey a project of extreme importance to the safety of North Carolina residents and travelers to our beautiful Outer Banks: a bridge over the Currituck Sound in North Carolina.

Mr. LAUTENBERG. I would be glad to discuss this issue with the Senator from North Carolina.

Mr. SANFORD. As the chairman may be aware, the beautiful Outer Banks of North Carolina receive hundreds of thousands of visitors every year. The visitors come to enjoy our national wildlife refuges, seashores, and parks.

Currently, the only bridge serving the northern Outer Banks is at Kitty Hawk, NC. Travelers to the Outer Banks witness many heavy delays at the Kitty Hawk bridge, as it is the only bridge serving the thousands of visitors going to the beaches. In emergency evacuations, the motorists wait literally hours in traffic before they make it to the mainland. I have grown increasingly concerned about the need to provide more adequate transportation to the barrier islands from the mainland North Carolina. I am afraid that the longer we put off new bridge construction, the greater the threat that a hurricane or great storm will devastate the islands and jeopardize thousands of lives.

The counties of Currituck and Dare are currently pursuing funding for planning money for a new bridge that would connect mainland Currituck County with the Outer Banks of North Carolina. I am aware that there are funds for planning under the Highway Research, Development, and Technology Program. It is my understanding, that the funds necessary to plan and design a bridge over the Currituck Sound could come from this program. I hope that you will support funding the planning efforts for the bridge in conference.

Mr. LAUTENBERG. The Senator is correct; there are funds for planning and policy studies under the Highway Research, Development, and Technology Program. I will work in conference to secure the funding for the planning of the Mid-Sound Bridge.

Mr. SANFORD. I thank the Senator from New Jersey for his support of this important project.

Mr. DODD. Mr. President, I rise in strong support of the Transportation appropriations bill before us today.

First, let me commend the chairman and the ranking member of the Transportation Appropriations Subcommittee, Senators LAUTENBERG and D'AMATO, for their hard work on this legislation. The process of crafting an appropriations bill presents a real challenge in the best of times. Given current budgetary constraints, Senators LAUTENBERG and D'AMATO deserve an extra round of praise for developing such a sound and thoughtful measure.

Mr. President, our transportation infrastructure is critical to our Nation's competitiveness. Businesses are handicapped if our roads and bridges crumble, our railways rust, or our airports are congested. This bill includes some $33 billion in funding to rebuild and improve our transportation system. Given the head-to-head economic competition against other nations, this bill could not come at a better time.

Equally important, this bill means jobs. It means jobs building roads in Hartford and across the country. It means jobs reconstructing runways at Bradley International Airport and at other airports throughout America. It means jobs electrifying the Northeast Corridor between New Haven and Boston. With the recession continuing to devastate New England and the rest of the country, this bill could not come at a better time.

Mr. President, the Federal Aviation Administration provisions of this bill provide $9 billion to improve airports, upgrade air traffic control systems, and bolster aircraft safety. All are critical if the United States is to maintain its first-rate air transportation system.

I was particularly pleased that the bill supports Bradley International Airport's request for Federal funds next year. In 1993, the State of Connecticut will be in the fourth year of a 5-year effort to reconstruct Bradley's runways and taxiways, many of which have not been rebuilt since World War II.

This is a joint Federal-State effort. The State of Connecticut is spending $100 million to build a new terminal, renovate the existing terminal, and make other upgrades at Bradley. Moreover, the State will chip in $4.5 million of the total $7.5 million cost for the runway reconstruction project in 1993. $3 million in Federal funds for Bradley next year will ensure that the reconstruction effort moves forward on schedule.

Mr. President, I was disappointed, however, that the committee was not able to include more money for the installation of airport surface detection system equipment, known as ASDE–3, at airports across the country.

These systems are critical to preventing runway collisions in foul weather. Installation of the ASDE–3 system is now underway at 29 airports, and the FAA has found that there is a need for these systems at 10 additional airports. The committee was able to fund only three more systems, and the longer we wait to install this important technology, the more each unit will ultimately cost. It would be my hope that the Senate could move toward the more generous House funding level for this system in conference.

Mr. President, the bill also allocates over $18 billion for our Nation's highways. The roughly $300 million Connecticut stands to receive as a result is greatly needed to rebuild aging highways and bridges and to continue projects to relieve congestion on Connecticut's roads. It will also ensure that thousands of workers across Connecticut are put to work literally building a better future for our State.

Last but not least, Mr. President, the bill before us reaffirms that passenger railroads are an essential element of the National Transportation System. For example, the bill rejects the latest in a series of administration efforts to

weaken AMTRAK, and instead allocates $496 million for AMTRAK's intercity passenger rail operations.

In addition, the committee has renewed its commitment to the Northeast corridor Improvement Program by allocating $204 million for this purpose.

The Northeast corridor between Boston and Washington is the most heavily traveled intercity route in the country, and AMTRAK is already the largest carrier between New York and Washington. Improvements under the program's auspices will reduce travel times between AMTRAK's stops along the corridor, and will draw more travelers away from planes and automobiles, thus reducing air pollution and airport congestion in the Northeast.

The lion's share of the Northeast Corridor Improvement Program involves electrification of the corridor between New Haven, CT, and Boston. Electrification, along with track and signal improvements, is essential to allow travel speeds of up to 150 miles per hour. In the long run, the money spent to upgrade the corridor for high-speed travel is a cheaper and environmentally superior alternative to highway and airport expansion.

As important, Mr. President, the Northeast corridor improvement project creates jobs. According to the New England Council, it means 1,000 construction jobs in the region each year for 9 years. That translates into $305 million for working men and women. Furthermore, the council estimates construction will generate $894 million in new business sales and will result in $440 million in continuing economic activity once the project is complete.

Mr. President, at the time our economic competitors are investing billions in their transportation infrastructure, we must be willing to follow suit. And at the time our economy wallows in recession, we need to create productive, good-paying jobs. This bill will do both. It is a good bill which will build a brighter future for Connecticut and for the Nation, and I urge my colleagues to support it.

SENATE FUNDING OF THE UNITED STATES COAST GUARD: RECOGNITION OF A GROWING TRADITION OF SERVICE

Mr. PELL. Mr. President, I had the honor last night to attend the dedication of the U.S. Coast Guard's bronze relief sculpture commemorating over 200 years of Coast Guard service to this Nation.

The sculpture is part of the splendid Navy memorial located just down the street from the Capitol and I appreciated having the opportunity to attend the dedication of the Coast Guard's portion of the memorial.

As I stood at the memorial listening to the music of the Coast Guard band and talking to the Coast Guard men and women attending the dedication, I was reminded once again that America is truly well served by the Coast Guard and that this tradition of service has continued to grow despite the number of missions that have been placed upon the shoulders of the Coast Guard.

When I joined the Coast Guard over 50 years ago, a few months before the attack on Pearl Harbor, the mission of the Coast Guard was complex even when judged by today's standards. With the looming storm of war, the Coast Guard was asked not only to protect the safety of life and property on American waters, but also to remain vigilant to the possibility of enemy attack along our coastlines.

During World War II, the Coast Guard fought in all theaters of the war. Significant wartime Coast Guard responsibilities included convoy duty in the North Atlantic and landing craft duty in the Pacific. With the end of the war, the Coast Guard's duties did not diminish, they increased and have been steadily growing ever since.

These growing responsibilities of the Coast Guard were pointed out earlier today by the distinguished chairman of the Senate Appropriations Transportation Subcommittee, Senator LAUTENBERG. Senator LAUTENBERG's subcommittee has recognized the many missions of the Coast Guard in its report on Coast Guard funding priorities for 1993.

The subcommittee's report reminds us that in addition to overseeing marine safety and navigation, the Coast Guard has been dealing with Haitian refugees, the aftermath of the Desert Storm deployment, and the continued enforcement of U.S. environmental laws, particularly, oilspill prevention and cleanup.

I am pleased that the Appropriations Subcommittee continues to remain cognizant of the many difficult tasks we seem to heap on the Coast Guard with each passing year. I am also proud that the Coast Guard continues to meet each new responsibility with the determination and flexibility that has marked this service for 202 years.

Mr. BYRD. Mr. President, I want to congratulate the able Senator from New Jersey [Mr. LAUTENBERG] and his counterpart, the ranking member, Mr. D'AMATO, for their excellent work on the fiscal year 1993 transportation appropriation bill. This bill provides much-needed funding for our Nation's crumbling infrastructure—its highways and bridges, airports, mass transit, and rail passenger service. As Members know, however, due to extremely tight budgetary constraints, this bill falls short of the investments which should be made in our neglected highways and bridges—much more needs to be done.

In addition, I also want to congratulate Senator LAUTENBERG and Senator D'AMATO for bringing a bill to the Senate that is within its 602(b) subcommittee allocation in both budget authority and outlays.

I urge the passage of this bill.

Mr. MCCONNELL. Mr. President, passed by Congress last year, the Intermodal Surface Transportation Efficiency Act [ISTEA] excludes the Minimum Allocation [MA] Program from an obligation ceiling. I am dismayed that provisions in H.R. 5518 cap this program at $900 million.

The issue before us is one of fairness. I ask my colleagues, should we honor the agreement reached in ISTEA providing some semblance of equity to donor States, or should we break the deal by imposing ceilings contained in this bill? In capping the MA, I am left wondering where the fairness is to States that contribute more money to the Federal Government than they receive in spending on infrastructure projects.

The issue before us is also one of funding. Under this appropriations bill, Kentucky's minimum allocation is $18.9 million. Without a ceiling, and in accordance with the ISTEA agreement, Kentucky would receive $23.2 million, a difference of $4.3 million.

Mr. President, I commend Senator BOND for seeking to move the MA from this ceiling, and I am proud to be a cosponsor of his amendment. I urge my colleagues to support this important measure.

Mr. BOND. Mr. President, I ask unanimous consent that on the minimum allocation amendment Senator MCCONNELL of Kentucky be shown as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

If there are no further amendments to be proposed, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. BURDICK] and the Senator from Tennessee [Mr. GORE], are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. HATCH] is necessarily absent.

I further announce that the Senator from North Carolina [Mr. HELMS] is absent due to illness.

On this vote, the Senator from Utah [Mr. HATCH] is paired with the Senator from North Carolina [Mr. HELMS]. If present and voting, the Senator from Utah would vote "yes" and the Senator from North Carolina would vote "nay."

The result was announced—yeas 74, nays 22, as follows:

[Rollcall Vote No. 171 Leg.]

YEAS—74

Adams	Durenberger	Mitchell
Akaka	Exon	Moynihan
Baucus	Ford	Murkowski
Bentsen	Fowler	Packwood
Biden	Garn	Pell
Bingaman	Glenn	Pressler
Bradley	Gorton	Pryor
Breaux	Grassley	Reid
Bryan	Harkin	Rockefeller
Bumpers	Hatfield	Rudman
Burns	Hollings	Sanford
Byrd	Inouye	Sarbanes
Chafee	Jeffords	Sasser
Cochran	Johnston	Seymour
Cohen	Kassebaum	Shelby
Conrad	Kennedy	Simon
Craig	Kerrey	Simpson
Cranston	Kerry	Specter
D'Amato	Lautenberg	Stevens
Daschle	Leahy	Symms
DeConcini	Lieberman	Thurmond
Dixon	Lott	Wellstone
Dodd	McConnell	Wirth
Dole	Metzenbaum	Wofford
Domenici	Mikulski	

NAYS—22

Bond	Kasten	Riegle
Boren	Kohl	Robb
Brown	Levin	Roth
Coats	Lugar	Smith
Danforth	Mack	Wallop
Graham	McCain	Warner
Gramm	Nickles	
Heflin	Nunn	

NOT VOTING—4

Burdick	Hatch
Gore	Helms

So the bill (H.R. 5518) as amended was passed.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote by which the bill as amended, was passed.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LAUTENBERG. Mr. President, I move that the Senate insist on its amendments, request a conference with the House on the disagreeing votes of the two Houses and that the Chair appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. LIEBERMAN) appointed Mr. LAUTENBERG, Mr. BYRD, Mr. HARKIN, Mr. SASSER, Ms. MIKULSKI, Mr. D'AMATO, Mr. KASTEN, Mr. DOMENICI, and Mr. HATFIELD conferees on the part of the Senate.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

MILITARY CONSTRUCTION APPROPRIATIONS, FISCAL YEAR 1993

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate now consider Calendar No. 586, H.R. 5428, the militry construction appropriations bill; that the only amendments in order to the bill be the committee-reported amendments; that there be a time limitation of 20 minutes for debate on the bill and committee-reported amendments, with the time equally divided and controlled in the usual form; that when all time is used or yielded back, the following occur without any intervening action or debate: The committee-reported amendments be agreed to, en bloc; that the Senate proceed to third reading and final passage of the bill; and that no motion to recommit be in order; that upon disposition of H.R. 5428, the Senate insist on its amendments, request a conference with the House on the disagreeing votes of the two Houses and that the Chair be authorized to appoint conferees.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee-reported amendments were agreed to, en bloc.

Mr. SASSER. Mr. President, under the previous order, I call up H.R. 5428, the Military Construction Appropriations bill for fiscal year 1993.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 5428) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1993, and for other purposes.

The Senate proceeded to consider the bill, which was reported from the Committee on Appropriations with amendments; as follows:

The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italic.

H.R. 5428

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1993, for military construction functions administered by the Department of Defense, and for other purposes, namely:

MILITARY CONSTRUCTION, ARMY

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Army as currently authorized by law, including personnel in the Army Corps of Engineers and other personal services necessary for the purposes of this appropriation, and for construction and operation of facilities in support of the functions of the Commander in Chief, **[**$534,520,000**]** *$366,260,000*, to remain available until September 30, 1997: *Provided*, That of this amount, not to exceed **[**$124,300,000**]** *$88,300,000* shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

MILITARY CONSTRUCTION, NAVY

For acquisition, construction, installation, and equipment of temporary or permanent public works, naval installations, facilities, and real property for the Navy as currently authorized by law, including personnel in the Naval Facilities Engineering Command and other personal services necessary for the purposes of this appropriation, **[**$396,059,000**]** *$336,829,000*, to remain available until September 30, 1997: *Provided*, That of this amount, not to exceed **[**$79,292,000**]** *$62,942,000* shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

MILITARY CONSTRUCTION, AIR FORCE

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Air Force as currently authorized by law, **[**$698,599,000**]** *$704,690,000*, to remain available until September 30, 1997: *Provided*, That of this amount, not to exceed **[**$100,000,000**]** *$75,000,000* shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

MILITARY CONSTRUCTION, DEFENSE AGENCIES

(INCLUDING TRANSFER OF FUNDS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, installations, facilities, and real property for activities and agencies of the Department of Defense (other than the military departments), as currently authorized by law, **[**$308,176,000**]** *$194,516,000*, to remain available until September 30, 1997: *Provided*, That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to such appropriations of the Department of Defense available for military construction as he may designate, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided further*, That of the amount appropriated, not to exceed **[**$85,818,000**]** *$56,818,000* shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further, That the Secretary of Defense shall continue the construction of a composite medical replacement facility located at Nellis Air Force Base, Nevada, as authorized in the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 101–189) and the Military Construction Authorization Act for Fiscal Year 1991 (division B of Public Law 101–510) and as provided for in the Military Construction Appropriations Act, 1990 (Public Law 101–148) and the Military Construction Appropriations Act, 1991 (Public Law 101–519).*

[NORTH ATLANTIC TREATY ORGANIZATION **[**INFRASTRUCTURE

[For the United States share of the cost of North Atlantic Treaty Organization Infrastructure programs for the acquisition and construction of military facilities and installations (including international military headquarters) and for related expenses for the collective defense of the North Atlantic Treaty Area as authorized in military construction Acts and section 2806 of title 10, United States Code, $121,200,000, to remain available until expended.**]**

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, [$160,665,000] *$145,331,000*, to remain available until September 30, 1997.

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, [$230,209,000] *$233,790,000*, to remain available until September 30, 1997.

MILITARY CONSTRUCTION, ARMY RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army Reserve as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, [$8,300,000] *$42,150,000*, to remain available until September 30, 1997.

MILITARY CONSTRUCTION, NAVAL RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the reserve components of the Navy and Marine Corps as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, [$9,900,000] *$17,200,000*, to remain available until September 30, 1997.

MILITARY CONSTRUCTION, AIR FORCE RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air Force Reserve as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, [$34,330,000] *$43,210,000*, to remain available until September 30, 1997.

FAMILY HOUSING, ARMY

For expenses of family housing for the Army for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, [$208,382,000] *$127,340,000*, to remain available until September 30, 1997; for Operation and maintenance, and for debt payment, [$1,363,697,000] *$1,380,517,000*; in all [$1,572,079,000] *$1,507,857,000*.

FAMILY HOUSING, NAVY AND MARINE CORPS

For expenses of family housing for the Navy and Marine Corps for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, [$339,640,000] *$359,410,000*, to remain available until September 30, 1997; for Operation and maintenance, and for debt payment, [$689,855,000] *$696,177,000*; in all [$1,029,495,000] *$1,055,587,000*.

FAMILY HOUSING, AIR FORCE

For expenses of family housing for the Air Force for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, [$332,954,000] *$261,786,000*, to remain available until September 30, 1997; for Operation and maintenance, and for debt payment, [$927,941,000] *$942,288,000*; in all [$1,260,895,000] *$1,204,074,000*.

FAMILY HOUSING, DEFENSE AGENCIES

For expenses of family housing for the activities and agencies of the Department of Defense (other than the military departments) for operation and maintenance, leasing, and minor construction, as authorized by law, $28,400,000.

HOMEOWNERS ASSISTANCE FUND, DEFENSE

For use in the Homeowners Assistance Fund established pursuant to section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966 (Public Law 89-754, as amended), $133,000,000.

BASE REALIGNMENT AND CLOSURE ACCOUNT, PART I

For deposit into the Department of Defense Base Closure Account established by section 207(a)(1) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526), [$415,700,000] *$440,700,000*, to remain available for obligation until September 30, 1995: *Provided*, That none of these funds may be obligated for base realignment and closure activities under Public Law 100-526 which would cause the Department's $1,800,000,000 cost estimate for military construction and family housing related to the Base Realignment and Closure Program to be exceeded: *Provided further*, That not less than $134,600,000 of the funds appropriated herein shall be available solely for environmental restoration.

BASE REALIGNMENT AND CLOSURE ACCOUNT, PART II

(INCLUDING TRANSFER OF FUNDS)

For deposit into the Department of Defense Base Closure Account 1990 established by section 2906(a)(1) of the Department of Defense Authorization Act, 1991 (Public Law 101-510), [$1,618,600,000] *$1,743,600,000*, to remain available until expended: *Provided*, That not less than $308,900,000 of the funds appropriated herein shall be available solely for environmental restoration: *Provided further*, That an additional amount for the "Base Realignment and Closure Account, Part II" of $69,000,000 shall be derived from the "Environmental Restoration, Defense" account of Public Law 102-172, to remain available until expended, and to be available solely for environmental restoration.

GENERAL PROVISIONS

SEC. 101. [Hereafter, none] *None* of the funds appropriated in Military Construction Appropriations Acts shall be expended for payments under a cost-plus-a-fixed-fee contract for work, where cost estimates exceed $25,000, to be performed within the United States, except Alaska, without the specific approval in writing of the Secretary of Defense setting forth the reasons therefor.

SEC. 102. [Hereafter, funds] *Funds* appropriated to the Department of Defense for construction shall be available for hire of passenger motor vehicles.

SEC. 103. [Hereafter, funds] *Funds* appropriated to the Department of Defense for construction may be used for advances to the Federal Highway Administration, Department of Transportation, for the construction of access roads as authorized by section 210 of title 23, United States Code, when projects authorized therein are certified as important to the national defense by the Secretary of Defense.

SEC. 104. None of the funds appropriated in this Act may be used to begin construction of new bases inside the continental United States for which specific appropriations have not been made.

SEC. 105. [Hereafter, no] *No* part of the funds provided in Military Construction Appropriations Acts shall be used for purchase of land or land easements in excess of 100 per centum of the value as determined by the Army Corps of Engineers or the Naval Facilities Engineering Command, except (a) where there is a determination of value by a Federal court, or (b) purchases negotiated by the Attorney General or his designee, or (c) where the estimated value is less than $25,000, or (d) as otherwise determined by the Secretary of Defense to be in the public interest.

SEC. 106. [Hereafter, none] *None* of the funds appropriated in Military Construction Appropriations Acts shall be used to (1) acquire land, (2) provide for site preparation, or (3) install utilities for any family housing, except housing for which funds have been made available in annual Military Construction Appropriations Acts.

SEC. 107. [Hereafter, none] *None* of the funds appropriated in Military Construction Appropriations Acts for minor construction may be used to transfer or relocate any activity from one base or installation to another, without prior notification to the Committees on Appropriations.

SEC. 108. [Hereafter, no] *No* part of the funds appropriated in Military Construction Appropriations Acts may be used for the procurement of steel for any construction project or activity for which American steel producers, fabricators, and manufacturers have been denied the opportunity to compete for such steel procurement.

SEC. 109. None of the funds available to the Department of Defense for military construction or family housing during the current fiscal year may be used to pay real property taxes in any foreign nation.

SEC. 110. [Hereafter, none] *None* of the funds appropriated in Military Construction Appropriations Acts may be used to initiate a new installation overseas without prior notification to the Committees on Appropriations.

SEC. 111. [Hereafter, none] *None* of the funds appropriated in Military Construction Appropriations Acts may be obligated for architect and engineer contracts estimated by the Government to exceed $500,000 for projects to be accomplished in Japan or in any NATO member country, unless such contracts are awarded to United States firms or United States firms in joint venture with host nation firms.

SEC. 112. [Hereafter, none] *None* of the funds appropriated in Military Construction Appropriations Acts for military construction in the United States territories and possessions in the Pacific and on Kwajalein Atoll may be used to award any contract estimated by the Government to exceed $1,000,000 to a foreign contractor: *Provided*, That this section shall not be applicable to contract awards for which the lowest responsive and responsible bid of a United States contractor exceeds the lowest responsive and responsible bid of a foreign contractor by greater than 20 per centum.

SEC. 113. [Hereafter, the] *The* Secretary of Defense is to inform the Committees on Appropriations and the Committees on Armed

Services of the plans and scope of any proposed military exercise involving United States personnel thirty days prior to its occurring, if amounts expended for construction, either temporary or permanent, are anticipated to exceed $100,000.

(TRANSFER OF FUNDS)

SEC. 114. [Hereafter, unexpended] *Unexpended* balances in the Military Family Housing Management Account established pursuant to section 2831 of title 10, United States Code, as well as any additional amounts which would otherwise be transferred to the Military Family Housing Management Account, shall be transferred to the appropriations for Family Housing, as determined by the Secretary of Defense, based on the sources from which the funds were derived, and shall be available for the same purposes, and for the same time period, as the appropriation to which they have been transferred.

SEC. 115. [Hereafter, not] *Not* more than 20 per centum of the appropriations in Military Construction Appropriations Acts which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year.

(TRANSFER OF FUNDS)

SEC. 116. [Hereafter, funds] *Funds* appropriated to the Department of Defense for construction in prior years shall be available for construction authorized for each such military department by the authorizations enacted into law during the current session of Congress.

SEC. 117. [Hereafter, the] *The* Secretary of Defense is to provide the Committees on Appropriations of the Senate and the House of Representatives with an annual report by February 15, containing details of the specific actions proposed to be taken by the Department of Defense during the current fiscal year to encourage other member nations of the North Atlantic Treaty Organization and Japan and Korea to assume a greater share of the common defense burden of such nations and the United States.

SEC. 118. [Hereafter, for] *For* military construction or family housing projects that are being completed with funds otherwise expired or lapsed for obligation, expired or lapsed funds may be used to pay the cost of associated supervision, inspection, overhead, engineering and design on those projects and on subsequent claims, if any.

SEC. 119. [Hereafter, notwithstanding] *Notwithstanding* any other provision of law, any funds appropriated to a military department or defense agency for the construction of military projects may be obligated for a military construction project or contract, or for any portion of such a project or contract, at any time before the end of the fourth fiscal year after the fiscal year for which funds for such project were appropriated if the funds obligated for such project (1) are obligated from funds available for military construction projects, and (2) do not exceed the amount appropriated for such project, plus any amount by which the cost of such project is increased pursuant to law.

SEC. 120. Of the funds appropriated in this Act for Operation and Maintenance of Family Housing, no more than $14,000,000 may be obligated for contract cleaning of family housing units.

(TRANSFER OF FUNDS)

SEC. 121. [Hereafter, during] *During* the five-year period after appropriations available to the Department of Defense for military construction and family housing operation and maintenance and construction have expired for obligation, upon a determination that such appropriations will not be necessary for the liquidation of obligations or for making authorized adjustments to such appropriations for obligations incurred during the period of availability of such appropriations, unobligated balances of such appropriations may be transferred into the appropriation "Foreign Currency Fluctuations, Construction, Defense" to be merged with and to be available for the same time period and for the same purposes as the appropriation to which transferred.

SEC. 122. None of the funds appropriated in this Act, except those necessary to exercise construction management provisions under section 2807 of title 10, United States Code, may be used for study, planning, design, or architect and engineer services related to the relocation of Yongsan Garrison, Korea.

SEC. 123. [Hereafter, such] *Such* sums as may be necessary for annual pay raises for programs funded by Military Construction Appropriations Acts shall be absorbed within the levels appropriated in each annual Military Construction Appropriations Act.

[SEC. 124. Defense access roads for Camp McCain, Mississippi, shall be considered as fully meeting the certification requirements specified in section 210 of title 23 of the United States Code.

[SEC. 125. The environmental response task force established in section 2923(c) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1821) shall reconvene and shall, until the date (as determined by the Secretary of Defense) on which all base closure activities required under title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 101-526; 102 Stat. 2627) are completed—

[(1) monitor the progress of relevant Federal and State agencies in implementing the recommendations of the task force contained in the report submitted under paragraph (1) of such section; and

[(2) annually submit to the Congress a report containing—

[(A) recommendations concerning ways to expedite and improve environmental response actions at military installations (or portions of installations) that are being closed or subject to closure under such title;

[(B) any additional recommendations that the task force considers appropriate; and

[(C) a summary of the progress made by relevant Federal and State agencies in implementing the recommendations of the task force.

[SEC. 126. Notwithstanding any other provision of this Act, each amount appropriated by this Act is hereby reduced by one percent.]

SEC. 127. None of the funds appropriated in this Act may be used for the design, construction, operation or maintenance of new family housing units in the Republic of Korea in connection with any increase in accompanied tours after June 6, 1988.

SEC. 128. None of the funds appropriated in this Act may be used to support the design or construction of any project to expand or rehabilitate the Pentagon reservation.

This Act may be cited as the "Military Construction Appropriations Act, 1993".

Mr. SASSER. Mr. President, a number of our colleagues are on the floor, including the distinguished Senator from Iowa. We ought to be able to dispose of this military construction bill in the space of about less than 10 minutes. The distinguished ranking member, Senator GRAHAM, has another engagement which I think he wishes to try to keep, if I am not mistaken.

So if my friend from Iowa and others will let us go ahead quickly and get this out of the way, I will be pleased to then yield to them.

Mr. HARKIN. Mr. President, will there be a rollcall vote?

Mr. SASSER. We do not anticipate a rollcall vote, Mr. President.

Mr. President, this bill was reported out of the full Appropriations Committee last Friday. The bill recommended by the full Committee on Appropriations is for $8,197 million. This is $193 million under the budget request, $277 million under the House bill and $366 million under the level enacted last year. I am pleased to report to the Senate that the bill is within the committee's 602(b) budget allocation for both budget authority and outlays.

Mr. President, it has not been easy drafting the military construction bill this year. Earlier this year, the subcommittee received an allocation that provided for a modest $50 million reduction from the budget request. The Committee on Appropriations believed that from a budget request of over $8 billion, a reduction of a mere $50 million could easily be achieved.

But as the saying goes, "a funny thing happened on the way to the theater."

The Committee on Appropriations in the House approved an appropriations bill that was $290 million over the budget request. Late in the cycle, the administration sent the Congress a budget amendment for another $116 million. This was the first time a budget amendment has been forwarded for military construction since I have been a member of the subcommittee since 1978. Finally, and perhaps most important, the Senate Armed Services Committee reported out a military construction authorization bill that added $720 million in new projects over the President's budget request.

So, it became clear to the subcommittee very quickly that we were being asked to fit a size 13 foot into a size 9 shoe. In short, there was no way to draft a bill without inflicting a great deal of pain and making some very difficult choices.

Mr. President, we did what we had to do. We made tough decisions, and we squeezed the authorized projects into the bill.

Mr. President, the administration's request for military construction for fiscal year 1993 was unrealistic as submitted and totally unbalanced in its priorities. Compared to last year's enacted level, the budget proposed a 60-percent cut in the regular military construction program inside the United States while requesting a 25-percent increase in construction overseas.

In just one account, for instance, the budget sought a 95-percent cut in the

construction program of the Army National Guard. Mr. President, those are not the priorities of the country.

On the other side of the ledger, the administration requested in its budget, $221 million for the NATO infrastructure program.

Mr. President, the administration has available to it the same information the subcommittee has. The administration knows that the construction backlog of the Army Guard, the Air Guard, the Army Reserve, the Navy Reserve and the Air Force Reserve is over $3 billion. And that backlog is growing, even as the force levels are being reduced.

So against this $3 billion construction requirement, the administration budgeted only $187 billion for the entire Guard and Reserve component of the Department of Defense.

Contrast that budget request, Mr. President, with the request for total spending overseas. The budget sought $530 million for overseas spending. Mr. President, we have almost 8 percent of our work force inside the United States unemployed. We need jobs in this country. We do not need to export construction jobs to foreign workers at foreign military bases.

So, Mr. President, the committee wisely placed a moratorium on most military construction overseas.

Now, some may say that the bill ignores valid requirements at our overseas bases. Mr. President, the simple truth is that we have no idea what our overseas force and base structure is going to look like in the future. Can any Member of the Senate tell me how many troops we will have in Europe in 5 years?

In the United States we have a deliberate and authorized base closure process to close bases inside the United States.

Overseas, we have only the Department of Defense and the Department of State free to negotiate with host nations on the future of our overseas base structure. The Congress and the American people have no role in that process.

All we get are press releases from the Department of Defense Public Affairs Office, or leaks in foreign newspapers, indicating that the Department of Defense is willing to give this base or that base back to the host nation.

So, we do not know what is going on overseas. We do not know what bases this administration is willing to give up or what bases it wants to keep. Our allies and their governments and their parliaments know more about American plans for overseas base structure than does the U.S. Congress.

In the United States, the base closure process is completely open. Every citizen in an impacted community has a right to have his or her voice heard. The Congress has an opportunity to vote on the decisions of base closure commissions. But overseas, everything is done in secret. Everything is done behind closed doors with representatives of foreign governments. The host nations are at the table. But the American Congress which is asked to pay the bill is kept in the dark until all the decisions are made.

I cannot tell any Member of this Senate what bases remain to be closed in Europe. I cannot tell any Member of this Senate what bases will be closed in the Pacific. I cannot tell any Member of the Senate what our allies are willing to pay, if anything, as the residual value of bases we will close. I cannot tell you what level of support our allies are willing to give to our remaining base structure overseas.

All I can tell you is, that with all these questions left unanswered, the administration wanted the Congress to write a check for $530 million—over a half a billion dollars—for construction overseas; $221 million of that amount is essentially in the form of a grant to the NATO Infrastructure Program. Now the Congress has always supported the NATO Infrastructure Program. But NATO is now a vastly different military alliance than it was a few short years ago. Every member of the alliance is cutting back on defense spending. And I cannot tell the Senate how those reductions are going to impact our allies' contribution to the NATO Infrastructure Program. All I can tell Senators is that the administration wants us to sign a check made out for $221 million for unspecified projects, projects that have no name or location, 99 percent of which are usually built in foreign countries.

Now, when the administration heard the subcommittee was planning to place a moratorium on overseas spending, the NATO lobby inside the administration got energized. Phone calls went out to many Members of the Senate. Late last week, it seemed like the sky was falling. That a moratorium on NATO infrastructure would result in the dissolution of the entire alliance.

Where have these administration officials been all year. The subcommittee had a hearing on NATO. The administration sent a rather low level witness. Questions and remarks from subcommittee members on both sides of the aisle made it very clear that spending overseas, especially for NATO, was in great jeopardy.

But months passed. We heard from no administration official requesting to be heard, formally or informally, on the importance of the NATO Infrastructure Program.

Now some observers tell me that the administration is looking for bills to veto. Mr. President, I cannot believe that President Bush would veto this bill which provides jobs for American workers inside the United States because it does not have enough in it which would be spent overseas.

A veto would cut jobs throughout this country. We have provided funds to build valid and required military construction projects. The NATO Infrastructure Program would pay for unspecified projects, we do not know where or how or when or how much. But we do know they would not be in the United States.

I would just say to any Member with whom the administration may seek to raise this issue, that we are not cutting off the spigot to the NATO Infrastructure Program. The program will be getting $60 million from recoupment of prior year projects NATO has agreed to reimburse. And the program has unliquidated balances of well over $400 million.

So we are not killing the NATO Infrastructure Program. We are placing a moratorium on any new appropriations until we know where this program is going and specifically how American taxpayer funds are to be spent.

Now, Mr. President, if we do get a veto on this bill, I want to know where we are going to find the money to pay for all this overseas spending the administration cares so deeply about.

Mr. President, every one of the projects funded in this bill has been or will be authorized. The military construction and defense process is the only process whereby each year four congressional committees, the Senate Armed Services Committee, the Senate Appropriations Committee, and our companion committees in the House, are required to approve projects before they are ever built. No other construction activity of the Federal Government is subjected to this kind of review and approval process.

With this kind of review and oversight, projects that are not required don't get funded. And when the Department of Defense sends us a budget request that cuts U.S. spending 60 percent while increasing overseas 25 percent, we have an obligation to the American people to correct that policy imbalance.

So, I would say to our colleagues, if you start getting phone calls from the White House saying this bill doesn't provide enough funding overseas, I hope you will turn to the back of the report and look at the State tables. Look at each State. And tell us what specific projects in your State can be cut to pay for some unspecified project in Europe for NATO. If any Member of the Senate who wants to give up his project and dedicate those funds to the NATO Infrastructure Program or to any other overseas project, let him come to the floor and offer an amendment, I will be glad to accept it.

Mr. President, I remind my colleagues that if we do get a veto on this bill, domestic projects will not be funded; it is just that simple.

So, Mr. President, I hope that those in the administration who considering

stirring the pot would think twice about their responsibilities. First they send us a request that totally emasculates a domestic military construction program. Then the administration fails to lend strong support to the overseas program submitted in its place. And after failing to show support for its own program, it opposes the bill. Well, Mr. President, the administration's responsibility does not end when the budget request is submitted. If the administration had wanted these funds so badly why haven't we heard from them before now.

Now, as we near conference on this bill, I hope the administration will be willing to work with us to set the priorities straight. The priorities in the budget request will not work. They are not the priorities of the American people.

Mr. President, it is possible to reach a compromise on this bill in conference, but only if the administration realizes that it cannot continue to submit legislation that is so weighted to spending overseas.

Now, Mr. President, the report has been available to Senators, so I will not address every detail. I do want Members, however, to take note of the large growth in the base closure accounts. The request for base closure activities was almost triple last year's appropriation. We have approved the level requested by the administration because under the base closure law, closures must be accomplished by certain specific dates.

But I am extremely concerned with the growth of this program. The base closure program cannot replace a regular military construction program. Our military bases that will remain open will continue to have investment requirements which must be met. But as the base closure program grows, it will continue to crowd out the regular military construction program.

We are learning that the Department has grossly underestimated the cost of cleaning up closed bases. Likewise the Department is overestimating the potential revenue which could be received from the sale of closed installations.

The subcommittee is asking the General Accounting Office to help us evaluate the future requests for the base closure accounts. If the Department is unable to get the cost of base closures under control, it has a responsibility to reorient other priorities in the defense budget so adequate funding is available to pay for the routine military construction requirements of the active services and the Guard and Reserve.

Mr. President, before I close I wish to thank the ranking minority member for his participation and his contributions to the subcommittee this year. The junior Senator from Texas knows that ours was a Texas-sized problem this year and we worked it out the best we could.

Mr. President, I yield the floor.

Mr. GRAMM. Mr. President, I thank the distinguished chairman for his leadership in bringing forward what basically I think is a good bill. The bill is $277 million below the level of funding provided by the House, $775 million below the level authorized by the Senate, and $193 million below the administration request. It fully funds the base closure accounts. In short, we have undertaken an orderly build-down process.

This was a difficult bill to write. I think we have made prudent decisions. The basic decision we made is that when in doubt, given the dramatic defense build-down, we ought not to commit money until we know exactly where we want to be when we are done. So I think it is a good bill. I congratulate the chairman. I thank the members of the committee for their leadership. I commend this bill to the Senate.

I yield the floor.

Mr. SASSER. Mr. President, I thank the Senator from Texas for his comments.

Mr. BYRD. Mr. President, I want to congratulate the distinguished Senator from Tennessee [Mr. SASSER] and the distinguished ranking member, Senator GRAMM, for the timely and expeditious manner in which they have completed action on the fiscal year 1993 military construction appropriation bill. They were able to fashion a bill, under extremely tight budgetary constraints, that is within its 602(b) subcommittee allocation in both budget authority and outlays and which accommodates the needs for the continuation of high-priority construction projects.

It is a reflection upon the excellent work of these Senators that this bill was passed without amendment on the Senate floor, and I urge the passage of the bill.

BUDGET COMMITTEE STATEMENT ON MILITARY CONSTRUCTION APPROPRIATIONS BILL

Mr. SASSER. Mr. President, the Senate Budget Committee has examined H.R. 5428, the military construction appropriations bill and has found that the bill is under its 602(b) budget authority allocation by $26 million and under its 602(b) outlay allocation by $99 million.

As the manager of the bill, I would like to compliment the distinguished ranking member of the Military Construction Subcommittee, Senator PHIL GRAMM, for his efforts in bringing this bill to the floor under its 602(b) allocation.

Mr. President, I have a table prepared by the Budget Committee which shows the official scoring of the military construction appropriations bill and I ask unanimous consent that it be inserted in the RECORD at the appropriate point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENATE BUDGET COMMITTEE SCORING OF H.R. 5428

MILITARY CONSTRUCTION SUBCOMMITTEE SPENDING TOTALS—SENATE REPORTED

[In millions of dollars]

Bill summary	Budget authority	Outlays
Defense	8,197	9,308
Senate 602(b) allocation	8,223	9,407
Difference	−26	−99
Mandatory total	0	0
Senate 602(b) allocation	0	0
Difference	0	0
Bill total	8,197	9,308
Senate 602(b) allocation	8,223	9,407
Difference	−26	−99
Defense above (+) or below (−):		
President's request	−193	−50
House—passed bill	−277	−23
Senate—reported bill	.....	.....

1993 APPROPRIATIONS SUMMARY—MILITARY CONSTRUCTION

[In millions of dollars]

Spending totals	President's request		House passed		Senate reported		Senate passed		Conference	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
Discretionary: Defense (Total)	8,390	9,358	8,474	9,331	8,197	9,308	.....	.....	.....	.....
Mandatory	0	0	0	0	0	0	.....	.....	.....	.....
Bill total	8,390	9,358	8,474	9,331	8,197	9,308	.....	.....	.....	.....

Mr. GORTON. Mr. President, I would like to take a few moments to express my thanks to Senator SASSER and Senator GRAMM of Texas for supporting two very important projects in the State of Washington—housing at NAS Whidbey Island and construction of three Guard armories in Grandview, Buckley, and Moses Lake, WA.

In 1990, NAS Whidbey Island was authorized to participate in the 801 housing program. When the base appeared on the 1991 base closure list, however, the program was put on hold. Shortly following the Base Closure and Realignment Commission's decision to keep NAS Whidbey Island open, Congress allowed Whidbey to continue its

801 program by authorizing $21.1 million in 801 build-to-lease funds (Public Law 102-190).

Due to budget scoring laws, the 801 program was never programmed for Whidbey Island. The fiscal year 1993 Military Construction Appropriations Committee report directs the Navy to include new housing construction funds for NAS Whidbey in the fiscal year 1994 budget. I will have to admit some frustrations with the Navy for not programming funds for housing at Whidbey in this year's budget, particularly when it has already designated NAS Whidbey as a critical housing area. The young airmen and their families are suffering daily as they are forced to live in substandard housing, and I have heard first hand about the hardships they endure as they wait for affordable and adequate living conditions. I will be working closely with the Navy to see that it includes new housing construction funds in next year's budget.

The committee also included funds for the construction of three Guard armories in Buckley, Grandview, and Moses Lake, WA. Senator ADAMS and I have been working all year to see that these funds are included in this year's bill, and I am pleased that the committee has agreed to do so. A site survey has been completed for all three armories, and construction of the proposed projects is ready to begin.

I regret that the committee was unable to include the additional funds for the bachelor's enlisted quarters at the Puget Sound Naval Shipyard, or the family housing in Kitsap County, WA. Again, I am keenly aware of the housing shortages in these areas and encourage the conferees to include the additional funding in the fiscal year 1993 military construction appropriations conference report.

All of these projects are a top priority in the State of Washington, and I encourage the Senate's support.

Mr. DASCHLE. Mr. President, I have a concern about the committee-reported fiscal year 1993 military construction appropriations bill and hope that I might engage the distinguished chairman of the subcommittee, Senator SASSER, in a colloquy to clarify the situation.

Mr. SASSER. Mr. President, I am aware of this matter and am happy to enter into a colloquy with the Senator from South Dakota [Mr. DASCHLE].

Mr. DASCHLE. Mr. President, the committee report accompanying the 1993 military construction appropriations bill lists appropriations of funds for an Air National Guard Unit in Sioux City, IA, under two separate entries, including one listing under the State of Iowa and one listing under the State of South Dakota. It is my understanding that the listing under the State of South Dakota was duplicative and unintentional. Is that correct?

Mr. SASSER. Mr. President, the Senator from South Dakota is correct. I have been informed that the Sioux City Air National Guard unit was listed correctly under the State of Iowa and also listed incorrectly under the State of South Dakota. That is an error we intend to correct in the conference report.

Mr. DASCHLE. Mr. President, I also understand that a project for the South Dakota Army National Guard at Fort Meade and a project for the South Dakota Air National Guard at Joe Foss Field in Sioux Falls were supported by the Subcommittee on Military Construction but were not funded in the bill because the subcommittee was concerned that these two projects had not been included by the Senate Armed Services Committee in the committee-reported version of the defense authorization bill. In other words, it is my understanding that the only reason those two South Dakota projects were not funded in the Senate's military construction appropriations bill is that the subcommittee believed that the projects were not going to be authorized this year. Is that correct?

Mr. SASSER. Yes; that is also correct. The Subcommittee on Military Construction based its actions on a list of projects to be authorized that it received from the Senate Armed Services Committee. Unfortunately, there was some confusion, and the subcommittee was unaware of the addition of these two South Dakota projects to the list of projects to be authorized. Had we known that the projects were to be authorized this year, we would have included funding for them in the committee-reported appropriations bill. Furthermore, the Senator from Tennessee wants to assure the Senator from South Dakota that he will do everything he can to ensure that full funding in fiscal year 1993 is provided for these projects in the final conference report. That would entail $805,000 for the Army National Guard training site expansion at Fort Meade, SD, and $3 million for the Air National Guard munitions maintenance and storage complex at Joe Foss Field in Sioux Falls.

Mr. DASCHLE. Mr. President, I appreciate that commitment from the distinguished chairman of the subcommittee. He has always been more than fair, and I want to thank him for his willingness to clarify and resolve this situation. His help is greatly appreciated.

Mr. SASSER. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc, provided that no point of order shall be considered as having been waived by reason of this agreement, and that the bill as thus amended be considered as original text for the purpose of further amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The committee amendments were agreed to en bloc.

Mr. SASSER. Mr. President, no amendments are in order to the bill, so I yield back my time and ask we go to a third reading.

The PRESIDING OFFICER. Does the Senator from Texas yield back his time?

Mr. GRAMM. Mr. President, I yield back my time.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall it pass?

So the bill (H.R. 5428), as amended, was passed.

Mr. SASSER. I move to reconsider the vote.

Mr. GRAMM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senate insists on its amendments, requests a conference with the House, and the Chair appoints Mr. SASSER, Mr. INOUYE, Mr. REID, Mr. FOWLER, Mr. BYRD, Mr. GRAMM, Mr. GARN, Mr. STEVENS, and Mr. HATFIELD conferees on the part of the Senate.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. I thank the Chair.

(The remarks of Mr. HARKIN pertaining to the introduction of S. 3133 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. HARKIN. I yield the floor.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1993

The PRESIDING OFFICER. The clerk will report the pending business.

The legislative clerk read as follows:

A bill (H.R. 5503) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1993, and for other purposes.

The Senate continued with the consideration of the bill.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER (Mr. CONRAD). The Chair recognizes the Senator from Nevada [Mr. BRYAN].

Mr. BRYAN. Mr. President, I thank the Chair.

AMENDMENT NO. 2882 TO AMENDMENT NO. 2881

Mr. BRYAN. Mr. President, the amendment offered by the distinguished Senator from Arkansas would be an amendment that has a devastating impact upon us in Nevada.

I am proud to be a cosponsor of the Reid amendment because I think it addresses the problems which have been debated on this floor in previous sessions that deal with the mining law of 1872.

Mr. President, I think a moment of history would be in order here. When we speak of mining and the history of statehood in Nevada, mining and Nevada's origin as a State are inextricably tied together. It was the discovery of the legendary Comstock Lode in 1859 and the mineral wealth that was developed in Virginia City that contributed to the growth and expansion of San Francisco. It placed Nevada on the map. Two years later as the Civil War began, it helped to finance the Union cause. During that war period, our own statehood was first considered.

It is an interesting footnote to recall that the first effort in adopting a constitution for the State of Nevada was unsuccessful, rejected by the people in the State of Nevada because of the manner in which mineral and mining activity was treated.

Nevada came into the Union in 1864, and for the better part of the next decade and a half the mineral industry flourished in Nevada. In the latter part of the 19th century mining declined, and as its fortunes ebbed so too did the fortunes of the State of Nevada.

There was a second resurgence of mining activity in the period right after the turn of the century. This activity was located in central Nevada in the historic mining towns of Tonopah and Goldfield. For the better part of a decade this mining activity contributed greatly to the economic activity in our State.

The third era, the modern renaissance, if you will, of mining began just in the past decade. So when we talk about mining in the State of Nevada we are not just talking about the history of our State, or the origins of Nevada statehood, but for thousands and thousands of people who reside in rural Nevada, mining is the principal economic activity in those communities. It is of vital importance to their economic health, and indeed is the financial underpinning to the counties and the communities in that area that provide essential services for those citizens.

My senior colleague this morning took us through a very definitive description of the importance of gold mining to our Nation, not just for the ornamental purposes—since the dawn of history men have sought gold and have fashioned it into ornaments of art—but for its most modern significance as being essential to industry, to our national defense effort, to our activities in space, and indeed, to the high technology activities of the future.

Mr. President, I think it is important, however, that this issue not be framed solely in the context of gold mining. The 1872 mining law, the underpinning for hard-rock mining exploration in our country, deals with a host of minerals. We are talking about such minerals as aluminum, antimony, beryllium, cadmium, chromium, cobalt, lead, magnesium, mercury, tantalum, titanium, tungsten, and a host of minerals.

Mr. President, I ask unanimous consent that a partial list of these essential critical elements, minerals, be made a part of the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Bureau of Mines]

MINERAL COMMODITY SUMMARIES, 1992

Aluminum, Antimony, Arsenic, Asbestos, Barite, Bauxite, Beryllium, Bismuth, Boron, Bromine, Cadmium, Cement, Cesium, Chromium, Clays, Cobalt, Columbium, Copper, Diamond, Diatomite.

Feldspar, Flourspar, Gallium, Garnet, Gem Stones, Germanium, Gold, Graphite, Gypsum, Ilmenite, Indium, Iodine, Iron ore, Iron and steel, Kyantie, Lead, Lime, Lithium, Magnesium.

Manganese, Mercury, Mica, Molybdenum, Nickel, Nitrogen, Perlite, Phosphate rock, Platinum, Potash, Pumice, Quartz, Rare Earth, Rhenium, Rubidium, Rutile, Salt, Scandium.

Selenium, Silicon, Silver, Soda ash, Sodium sulfate, Stone, Strontium, Sulfer, Talc, Tantalum, Tellurium, Thallium, Thorium, Tin, Titanium, Tungsten, Vanadium, Yttrium, Zinc, Zirconium.

Mr. BRYAN. Mr. President, this issue is often debated in the context of regional interest. There is a reason for that, Mr. President. If one looks at the map of the United States, it is readily apparent that 12 States, all of which lie roughly to the west of the 120th degree meridian, part of the great American West, 12 States, produce 75 percent of all the U.S. States metals that are mined.

That is an important reason for us as a region and for us as a Nation to rightly be concerned about a fundamental change in the mining law of 1872 that has served this Nation, in my judgment, rather well for the last 120 years.

Nevada is known for its gold and silver production, and less well known is its copper production, which has sustained the economy in Ely, a small community in the northeastern part of our State, and sustained that community for the better part of this century, into the late 1970's.

Nevada also possesses substantial sources of molybdenum, lithium, tungsten, iron, gypsum, and a variety of specialty minerals, all of which are important strategic metals. Many of these resources are largely undeveloped, but will become important to Nevada and to the Nation in the future.

We also have active exploration for platinum. Total nonfuel minerals produced in Nevada in 1990 approximated $2.6 billion, about 12 percent of the total gross State product in the State of Nevada.

We, as a State, produce more than 6 million ounces of gold, about 62 percent of the entire production in the United States, and about 11 percent of the total gold production in the world.

Nevada's gold production reduces the Nation's trade deficit, since we are a net exporter of gold. The mining companies have invested $5 billion in Nevada in the last 5 years alone. Employment in this industry has increased from 6,000 jobs in 1985 to a peak of some 16,000 jobs in 1990.

State and local taxes paid by the mining industry have increased from $21 million in 1986 to about $90 million annually. Thus, mining, as I have pointed out, has not only a historical significance for our State, but it is an integral and critical part of the State's economy today. It is one of the few sources of ongoing direct investment in the rural communities of the West and is an important source of State tax revenue, jobs, and raw materials to fuel the economy.

The mining law of 1872, unfortunately, has been a source of controversy for a number of years. Much of that criticism, Mr. President, in my judgment, is misplaced. Few people really understand the way the law operates, and there are a few isolated cases of abuse.

Typically, the well-advertised misdeeds of a few are frequently used to lay down an indictment against the entire industry. It tends to color public opinion and get people emotionally responding to a situation which we recognize must make some change. Those changes, which I am going to address in a moment, are included in the amendment which my senior colleague and a number of us are offering before the Senate this afternoon.

My dear friend and able colleague, the distinguished senior Senator from Arkansas, has raised fundamental questions over the years about the mining law of 1872.

I think it is fair to categorize his concerns in three areas:

One, he says, in effect, the American taxpayer does not derive fair benefit as a result of the mineral activity that is permitted under the mining law of 1872 on public lands.

May I say, with respect to all of my colleagues, no Member of the U.S. Senate has a greater concern or sensitivity for the use of public lands. In Nevada, 87 percent of the entire land mass is owned by the Federal Government and is administered by one or more of the Federal agencies. Of the remaining 13 percent, some of it is used for State, county, and municipal purposes. So we have a relatively small tax base in terms of the amount of land available to us in our State that is under the ownership of the private sector.

Let me speak, if I may for a moment, to the criticisms which my colleague, Senator BUMPERS, with whom I have joined in common cause on a number of issues on this floor, as it relates to the impact upon the Federal budget—most recently, the superconducting super collider.

Senator BUMPERS says that, in effect, we ought to have a royalty system, because he says that is what we have for oil and gas, and the hard-rock mining industry ought to be treated the same way.

Let me say, Mr. President, that that has a facial and superficial resonance. It sounds sort of reasonable. What is sauce for the goose is sauce for the gander. But let me point out that there is a fundamental difference between the underlying public policy rationale for oil and gas and hard rock mining.

The premise with respect to the treatment of the leasing of oil and gas is based upon the premise that there is a front-end capital expenditure. In fact, when drilling and erecting the oil rig, if one is successful in locating a body of oil, in effect, the process thereafter is simply to extract from that same source.

With hard rock minerals, you have a totally different situation. There is the front-end cost, and it is substantial; about $500 million today in Nevada is the average cost of getting into a producing mineral operation. But rather than having that front-end cost eliminated at that point and simply extracting the resource, there is an ongoing capital expenditure as you move into the ore body, and it is a very capital-intensive and very expensive operation.

Moreover, there is a vast difference between the scarcity of hard rock minerals and oil and gas.

Let me invite my colleagues' attention to just a few points that I think illustrate that.

Copper. Thirteen mines produce more than 95 percent of all the copper produced in America—13 mines.

Lead. Nine mines, less than 10, produce all of the primary lead mined in America.

With respect to gold, 25 mines yield 75 percent of the total produced in the United States.

With respect to zinc, 25 mines yield 99 percent of all the zinc produced in America.

With respect to iron, about 10 mines yield 99 percent of all the iron ore produced in America.

Compare, if you will, the rarity of hard-rock mineral occurrences, as illustrated by the foregoing example and the situation with respect to oil and natural gas. The domestic oil supply of the United States comes from 606,890 oil wells, on land, or on the Continental Shelf.

Natural gas. The domestic natural gas supply of the United States is produced from some 257,279 gas wells on land and on the Outer Continental Shelf.

So, Mr. President, I suggest to you that there is a fundamental philosophical reason why oil and gas are treated differently than hard rock-mineral exploration, and the law dating back to the 1920's recognizes that.

My colleague and friend from Arkansas talks about revenue. I am concerned about that. I know the Presiding Officer sitting in the Chair this afternoon has addressed much of his energies to this since coming to the U.S. Senate, because of his concern about the Federal deficit and our budgetary policies. Suffice it to say that those who have studied and examined the issue believe—and the reports so conclude—that if a royalty system were adopted it would discourage mineral exploration; we would have substantially less activity and, in effect with, a royalty system our revenues would not be enhanced as I know is the hope and expectation of my friend, the distinguished senior Senator from Arkansas, but Federal revenue would be reduced a net loss, if you will, of $80 million.

So both in terms of philosophy as to why hard rock minerals are treated differently from oil and gas, there is a valid distinction in the public policy treatment of those two fundamentally different commodities and with respect to the revenue expectations.

So a royalty system would discourage exploration and would not accomplish the purpose that the senior Senator from Arkansas intends.

Mr. President, the senior Senator from Arkansas points out that a great number of these mining activities are foreign owned. He is correct. I wish that were not the case. As an American citizen and one who is interested in the success of American industry, I wish with respect to the mining industry we would have seen more entrepreneurial spirit and that these companies would have been 100-percent owned by American companies. I wish that were the case. It is not.

But it certainly served no purpose, in light of the criticality of these minerals, in light of the economic activity generated in many States across the West, and in terms of our own long-range objective to be competitive in a number of high tech industries in which these strategic metals are so important. It makes no sense when we are a net exporter of gold and other minerals to make ourselves more dependent on imports than we are today. That simply does not make sense, notwithstanding the concern that he has expressed and my own wish that indeed we had more American companies involved in mining activity.

Mr. President, another argument that my friend from Arkansas makes—and he points out and he shows how the landscape has been scarred by mining activities across America. He is right. But those are examples that ought to be in a history text of America included with other environmental litanies of horror in which the practices of the past—not continuing practices—have led to these kind of conditions. And none of us who support essentially the parameters of the mining law of 1872, together with the amendments proposed by my able senior colleague, would defend that kind of result. We do not. But it is misleading to suggest that this is an ongoing situation.

Mr. President, since the enactment of the mining law of 1872, approximately 20 significant pieces of environmental legislation have been enacted by the Congress which apply to mining activity, and they should. So the situation which my friend laments and which all of us lament is not an ongoing concern and cannot occur again.

So all of the references to Superfund are totally inappropriate for this debate. They simply have no relevance. Those are problems of the past, not continuing problems.

Let me discuss for a moment, Mr. President, the amendment that we are asking our colleagues this afternoon to support. It addresses three of the fundamental problems which exist with the mining law of 1872. My colleagues will recall in years past the Senator from Arkansas said, "Look, companies that seek to explore for mineral potential on the public lands in America pay $2.50 an acre. That is wrong." He argues that is a ripoff of the taxpayer, and he says that requires fundamental change. The amendment being offered today addresses that situation and says, rather than that evaluation of $2.50 or $5 per acre, depending on the types of claim filed, in effect we ought to have a fair market value. That is reasonable; a company ought to pay a fair market value for that claim, and indeed some of the examples that have occurred are indeed indefensible and none of us who support the law of 1872 would attempt to defend it. Under the present law, once a patent has been secured—and it can be filed only on the basis of demonstrated provable mineral resources—if the patentee thereafter chooses to use that land for another purpose it can be converted and used for development, as an example, of resorts and other things. That is fundamentally wrong. It should be changed. This amendment does it.

The amendment that we have asked to be adopted today says that with respect to those patentees who are no longer using that land for mineral purposes and seek to use it for another purpose, the Federal Government, in effect, has a reversionary interest and that land reverts back to the Federal Government, as it should. The taxpayer is thereby protected. No longer can there be these isolated examples of abuse, which have embarrassed I think many in the mining industry, who are legitimately seeking access to the public lands solely for the purpose of mineral exploration, not as part of any concealed effort to gain access to secure a patent and then convert that property into some type of unrelated mining commercial development, that abuse will be ended.

Finally, with respect to reclamation, another concern raised by our friend from Arkansas, the amendment that Senator REID and others of us have put together addresses that issue and it says that if a State does not have a mining reclamation law—and I might add parenthetically that Nevada has such a law enacted within the last 2 years. It is a good piece of legislation. It is working well. I can attest, as my colleague from Nevada has, that I have gone to a number of the mining operations in Nevada that have been approved in the last 7 or 8 years and I must say that there is an environmental sensitivity and a recognition that these kinds of problems which have existed in the past cannot be allowed to occur in the future and the mining reclamation law of Nevada makes sure that is not the case.

But the amendment, Mr. President, goes even further, and it says that if a State fails to enact such a reclamation law there is a Federal reclamation requirement to make sure that indeed that land be restored to as close as possible its condition prior to the mineral activity.

Mr. President, I think fair-minded Members of the Senate would have to recognize that this is an honest effort made to address some legitimate concerns that have been expressed over the years by a number of colleagues. It addresses the issue of air market value, and it does so consistent with practices that exist with respect to the acquisition of other property that is acquired by private interests. It addresses the problem of the reversionary interest and I think it does so reasonably and responsibly and, finally, with respect to the reclamation, that is something that all of us need.

Mr. President, much of this that I have heard from my friend from Arkansas simply is irrelevant to what we are talking about today. It recognizes some of the historical excesses and abuses. No one here defends that or suggests that ought to be allowed to occur. But, as I have indicated, contemporary environmental law prohibits that and the new reclamation requirements which will be a part of the law if this amendment is offered would go even further to restore the area used for mining once that period of use has expired.

Mr. President, I yield the floor and thank the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, while other Senators are coming to the floor to speak in favor of this amendment—I have been given a list of seven or eight Senators—I will say a few things, but I would hope that those Senators who wish to speak on this amendment would come forward. I have been informed by some Senators that unless something moves along there may be a motion to table my amendment.

So I hope that individuals who wish to speak in favor of this amendment will come over to the floor and proceed to do so.

While they are doing that, Mr. President, let met just say a few things in response to the distinguished Senator from Arkansas, who has opposed this amendment.

First of all, there is wide support for this amendment. For example, the National Association of Counties—every Senator has in his or her office a statement from the National Association of Counties, which arrived today, saying, support the Reid amendment; School Board Association, support the Reid amendment, for obvious reasons, as all around the world, the ability to obtain revenue from mining operations is done on a local level. It is done in Australia, it is done in Canada, as we outlined this morning. That is why the counties want my amendment to pass, because they know it will stop the statements that are not factual by my friend.

I also suggest to those that are participating in this debate and listening to this debate, that if you listen to my friend from Arkansas, you have to be careful in what you hear, because during the same sentence he will talk about unpatented claims—he said there is over 1 million of them, and that is right—and in the latter of the sentence, the second phrase, he will talk about patented claims, two totally different problems.

The chairman of the Appropriations Committee, with opposition from almost all western Senators, opposed the holding fee. We opposed the holding fee. The chairman of the committee has in this bill a holding fee that applies to unpatented claims of $100 per claim. It will bring to the Government about $50 million. That is how it is scored in the bill. But remember, there is a difference between patented and unpatented claims.

My amendment applies to patents. And, as I said this morning, last year, around 20 were issued in the whole country.

Anything that we try to do is not enough. My friend from Arkansas will not take yes for an answer. We have language in our amendment that we took from his legislation, and he still says he does not want it. I do not know if it is pride of authorship or if he just does not want any mining to take place.

Now, there has been some talk by my friend from Arkansas that the Black Cloud Mine is a Superfund site. Again, everyone listening understands it has nothing to do with the debate before this body. The Black Cloud Mine was dug in 1895. And as I indicated this morning, there is no question some of these old diggings have created problems.

In Nevada, I indicated there is mercury in the Carson River. And what the EPA is now doing is trying to find out if there is a mining company still available that could react to the Superfund and pay. Otherwise, the taxpayers will be called upon to pay those moneys.

But do not compare a 1895 hole with a hole that is dug today. They are totally different. Do not be confused because of that.

Mr friend from Arkansas talks about fair market value being $100 a claim. I said, "Where did you hear this?" He said, "Well, the BLM said something."

All I know, Mr. President—and I see my friend from New Mexico here and I will be happy to yield to him in just a few minutes—I do not know where my friend from Arkansas got his information.

Here is the information that we have: Estimated total surface values of land patented under mining law in fiscal year 1991—these are approximate values listed by each State, the number of patents, number of acres, dollar per acre. What are some of the patents. This is 1991. In Arizona, two of them, the appraised value of the land is $3,500 an acre, not $100 an acre.

Again, my friend from Arkansas will not take yes for an answer. He has talked since I have been in the Senate about $2.50 and $5 an acre. We want to change it. He will not let us change it. He is opposing it. Incredible.

Then he says, "Well, you got fair market value in the land in your amendment, but we do not want fair market value." I do not know what he wants. But the fair market value is more than what he said: $3,500 in Arizona on two claims; California, in their patents, one, $6,000 an acre, another $12,500 an acre; Montana, $1,750 an acre.

I have other things to say about this, and I intend to do that before this debate is terminated.

I see my friend from New Mexico, a cosponsor of this amendment, is here. I am happy to yield to my friend from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. I thank the Senator from Nevada.

I am very pleased that the distinguished chairman of the Appropriations Committee, Senator BYRD, is on the floor, because I very much appreciate the opportunity to try to make a convincing case to him. He would be a Senator that has no specific interest because he does not have public domain land like New Mexico, Nevada, and Utah.

I would like to break this argument into two parts. One the environmental part and one the economic part. I am not at all sure that I need to spend a great deal of time on the environmental part, but I would like to state the sequence of events and what brings us to the floor here and some misunderstandings regarding the environment.

I say to Senator BYRD, the mining law of the United States is a very ancient piece of legislation.

Some will come before the Senate, as they have, and put up pictures of the days past and talk about the reform of today as if it should be directed at the scars of the past.

So let me quickly dispel any notion that a new mine in the State of New Mexico or the State of Nevada or the State of Utah, under any conditions, can look, like those mines, those mine sites of days past argued about by the distinguished Senator, Senator BUMPERS. With those mines that are shown all over American television as evidence that the mining law today does not work, they are talking about a mining law without any environmental laws in place.

So that a mining company, Jones Inc., went into Colorado 60 years ago and found copper. They abided then and there by all the laws that existed then. There were no reclamation laws, I say to my good friend, the chairman. There were no clean air laws. There were no planning laws required with reference to drainage and the like from the surface.

So, suffice it to say that an unreclaimed, filthy site of 60 years ago that still exists in the mountains of Colorado is not relevant to what is going on today. There will be no such trash left behind.

In the State of New Mexico there is a molybdenum mine. Needless to say, I might suggest, if we would have had the 8-percent royalty on the molybdenum mine—and I will do the economics in a moment—that molybdenum mine would have closed 20 years ago because there is so much competition in molybdenum. It was a touch and go situation for 300 to 500 workers in New Mexico producing molybdenum.

You add an 8-percent royalty because they charge it someplace else, and they close.

But, when they finally close that mine for economic reasons, they will clean up everything and there will not be a Senator down here in 30 years with a map and a picture, saying to the next generation of Senators, "You see, we need to charge somebody today to pay for the past, because that molybdenum mine needs cleaning up"—because it will be cleaned up.

So, first, all environmental laws of America apply to mining today. In fact, I have urged that we put a preamble to these amendments and say "The following environmental laws are incorporated by reference."

It is said you do not have to, they apply. I agree. But those who oppose mining on the public domain—and the chairman must know, look around and see America polarizing—there are many who say do not mine on the public domain. I regret to tell my colleague that some of those who are speaking for reform would like to make it so difficult that that fourth use of the public domain, along with grazing and logging and hunting—that one for mining, they would like to close it down.

I think we are talking to somebody here who understands you do not close down the hard-rock mining industry of America and expect to have a balance of payments on the plus side with the world, because then you can go ahead and import all your copper; you can import all your gold; you can import all your molybdenum; you can import all your titanium, because the public domain has been the source of strength for our country. And that was our forefathers' thought, that if that public domain could make us strong and yield these minerals, let us do it. And I assure you in my State the best paying jobs today are the mining jobs. And they are not underground mining in most cases so they do not have the horror stories that come to mind when we speak of mining, as they do to the mind of the Senator from West Virginia immediately.

So, first of all, it is only to remind us of what we should never do again that the pictures of unreclaimed mines are relevant here today.

Interestingly enough to the Senators from the Western United States, and principally the Southwestern, where the hard-rock mining industry of America actually lies—that is the place that procures things—we are here today offering a set of reforms that 10 years ago nobody would have brought to this floor. So we appreciate the pressure that has come upon the mining industry and our States from those who want cleaner places, want to keep our forests and minimize the damage.

What we have done is dramatic. And when somebody comes here and says there is no reform—well, there is enough reform on this $100 per filing per year to yield $52 million new money to the Federal Government. All by itself, it will scare off thousands of prospectors who are doing it as a hobby. But it will not scare off those who are serious. Because if they are seriously looking they will take a risk and $100 will be paid to the Federal Government for the right to look upon that 20 acres. So that is the No. 1 reform; pay more, do it more seriously, do not do it randomly.

Point No. 2, when this old mining law was passed, the U.S. Government, President, Senators, thought the best policy for the United States was to get the minerals out of the ground. So they said give them a patent when they have done all this work and then it is theirs. There were a lot of reasons for patents. I think we would understand, if you are in the mining business and you are finally going to build some real facilities, you probably borrow some money. And the point of it is, with a patent you are mortgaging your property, with a mining claim there is a little different way to get your mortgage money.

However, there have been some abuses. Although I will suggest that the horror stories of abuses have been greatly magnified. There are not a lot of mining land claims being deeded over under patent. The numbers have been given. There are very few—hundreds per year, of acres, maybe into 3,000 out of these millions of acres, and thousands which claims are on.

But the case is made that you should not take a patent for $2.50. So the second reform is if you get a patent, you have done all the things that entitle you to it, pay the fair market value. We have done fair market value on our forests, on BLM land, and we know how to go get appraisers, and you argue about it but you end up paying a lot more than $2.50. That is point No. 2.

At one point that was the hue and cry of those who wanted reform: Make them pay for it. We did it.

But you see what happens, I say to my Senator friends, now, in the United States, when it comes to environmental laws, we have adopted this philosophy: Anything worth doing is worth overdoing. So you see now we have said we are going to have fair market value. But some say more, more. So we even went further in this amendment, in the Reid-Domenici amendment.

Listen carefully. We said you can get title when you have done all those things entitling you to it—that is the patent—but you will never be able to use this for anything but a mine because, you see, in a few cases the mining company gets the land and then they sell lots to people, and in the middle of a beautiful forest is a subdivision.

I do not want that. Anybody who says I am not for reform, that I want that—private inholdings in national parks and forests I do not want that. So I suggested that we go one better and we have now. As fellow lawyers I will suggest to my colleague what we have done. We have said the patents, henceforth, in the future, will have a reverter clause in them. Reverter is very, very simple. If you ever stop using the land for mining, the fee simple title absolute reverts to the United States of America.

If that is not going to cure the problem, that there are going to be no hotels built on these lands, no motels, you are not going to move your house up there and say I have a mining title and I am going to build something for my children to go up and recreate and spend $200,000, you do not get any mortgage on that anymore because the title will be encumbered with a reverter clause.

If that is the case, what I have just said, they are paying for more than the

land. It is going to go back to the Government when you stop using it, which means you cannot use it for anything but the mining activities.

And then somebody says, well, there may be a State that does not have reclamation laws. I regret coming to the floor of the Senate and telling the Senate my State is one. It does not have any reclamation laws for hard-rock mining. I regret to tell the chairman, the State of Arizona does not.

So some would say no patents, even with the reverter, because if you get title the U.S. Government's reclamation laws no longer apply. So we said OK. We do not want anyone to escape reclamation. This amendment says if there happens to be a State that does not have reclamation laws for hard-rock mining, then even in the patent stage the reclamation laws of the U.S. Government apply to that land. That can be doled out by the forest rangers and it will be managed by them, just like they are managing it today.

I do not think we can do anything more than that with reference to saying it will be reclaimed. We will not do harm to the forest. If there are real minerals worth mining for America, for American workers and America's balance of payments, you are not going to end up with abuses by way of use. Once you are finished mining in a way that meets the standards of environmental cleanup, you get off the land. That comes back.

I do not believe we could do any more by way of reform. And I remind everyone we are living in an age that anything worth doing is worth overdoing. So people want more—this is not reform—it is not enough—Senator REID is not doing enough, where 10 years ago we would not have thought of this.

On the issue of whether you ought to tie rights or taxes to environmental problems with hard-rock mining on public domain, I want to just start by quoting from—this is how it is stated. I will assume it is right. It says—this is written by John D. Leshy, an activist, working to reform the general mining law of America, as referenced in his book, "The Mining Law." And I quote a very short statement:

> The lack of rental royalty does not mean that the Federal Government receives no return on its minerals.

This is the activist for reform.

> The various tax consequences of mining are too complicated to deal with here. But hard rock mineral development under the mining law, like any income—producing business, eventually produces direct or indirect payments to Uncle Sam.

End of sentence, start of last sentence.

> The argument for greater revenue return is thus not an overwhelming argument for reform of the mining law.

Now if I heard the opponent of the Reid-Domenici reform correctly, it was stated that one of the overwhelming arguments for reform included fixing royalties. An actual environmentalist who knows all about this has clearly indicated that should be distinguished because there are other indirect and direct benefits that come to a country—Uncle Sam—from mining.

That leaves us with why would we now at this stage of the industrial revolution in the United States put a royalty on hard rock mining on public domain? One argument: Tax the mining companies today because we want them to pay for the pollution of the past.

Mr. President, because the Superfund is having to pay for the pollution of the past does not mean that the mining companies of America today escape paying for the pollution of the past. The problem is, Mr. President, that the mining companies that did the polluting are not around anymore. There are not even successors in interest, because if they found them they would get them under the Superfund. That Jones Mining Co. that polluted that piece of Colorado that I hypothetically referred to is not around anymore. In fact, under the Superfund, they are even looking to see if there is a 95-year-old member of the board of directors, and if they find them they are suing him because they are liable.

Now listen. Should we put the current hard rock mining industry in economic straits, maybe even breaking them, closing some because we want to make them pay for the sins of the past? Frankly, I would answer that question not only no, but I would answer it with a no with some emphasis before it that I cannot say on the floor of the Senate.

However, we have done something like that with the environmental laws, but I submit we are learning some lessons about taxation in the name of environmental cleanup, and now we ought to learn in advance what we are going to do to this industry.

So let me suggest that if ever there was a time you should have put on royalties for this it was when there was not any competition in the world for hard rock mining resources. There is plenty today. And contrary to what has been said, our major competitors, including Canada, have no national government royalty imposition for the mining of hard rock in their country. I would be delighted to put a statement in the RECORD on that.

There may be some local taxes, and we have plenty of local taxes. But the remaining argument, even if one says we surely should not tax some industries today in a willy-nilly manner to pay for the sins of the past, one might say, well, they just ought to pay it.

I will be very pleased to put an argument in, which I will not even state. If Newmont Mining was used as an example because there is a private landowner involved and they are paying royalties—I would be pleased to put in the RECORD and not burden the Senate with it—that if you can find a new mining situation in America or on the public domain, tax it. The truth of the matter is, it is a one of a kind. It is private property owners who had a mother lode on the property, everybody knew it was there, there was no risk, you did not have to do a thing, and so you kind of split the profits.

I tell you, that does not exist in the gold mines in his State, it does not exist in the copper mines in my State, and it does not exist anywhere that I know of, where miners and mining companies are trying to get hard rock out of the ground.

The distinguished chairman, and this Senator were privileged, served on the Budget Committee that produced the 5-year agreement. People criticized it. They did not have to go put it together. They did not have to go through what we did. The only thing good out of that is that we were fed rather well.

However, we did something in the name of gaining revenue and proving a point. Do you remember the luxury taxes? We said: Let us tax the yachts because, after all, the yachts can afford it. I will soon tell you the industry cannot afford it. But let us just follow the logic that they could. In the name of taxing the yachts because they can afford it, the very same people who clamored to do that are very anxiously waiting for an opportunity to repeal it, and it has not been a decade. It has been a couple of years.

In fact, the tax bills that are coming down here, those who put on that luxury tax do not even want to speak of how it all happened, they just want it to disappear. Guess why? Because that tax lost money. Because when you did not buy any new yachts, they did not hire any people. And we had ports in northeastern United States with places that made and maintained these with hundreds and hundreds of people out of work.

We learned a little bit of a lesson that to tax because they could afford it put lots of people out of work because people stopped buying yachts and big boats and, lo and behold, the same people who wanted to tax them are here trying to undo it quietly, because at home the unemployed people are clamoring to put themselves back to work building yachts and maintaining them. Now that is the practical effect.

Mr. President, it is not as if there has not been time to study the effect of what Senator BUMPERS wants to do by way of royalties because that idea, and some more, have been around for quite a while. So you would expect a good close look at what it is going to do to the jobs in the States that produce hard rock minerals now and in the future.

I submit that the revenues that our States and our Federal Government are

getting and that the private sector is earning because of the things that are bought for the hard rock mining deserve our attention, because in the name of picking up royalties to pay for the sins of the past, which is what I understand one justification for it is—why should the Superfund pay—why should not the mining companies pay when the mining companies are not around anymore, because if they are, they are paying. And do not worry about the effect on the thousands of workers, the millions in revenues to our State and, yes, a few billion in indirect revenues to the Federal Government of the United States. None of that even gets to the issue of us having copper that is ours and silver that is ours and gold that is ours instead of importing it.

There has been a major study done of the effect of the royalty. It is a Coopers & Lybrand study. It says we will lose 30,000 jobs in mining and related activities. It will cost the Government, not make for the Government, $230 million a year in lost revenue. It will cost the Western States as much as $3.8 billion in lost economic activity. This loss means lost taxes, sales, property, production, excise taxes which States and local governments depend on for schools, hospitals, local communities, and the like.

States will lose $800 million in earnings. In the end, will taxpayers be willing to replace what was a dependable source of revenue? I do not think so.

Now, I urge that we leave the reform that is contemplated in the Reid-Domenici amendment, that we let it work its way. Let us see what it does to the contentions that there is abuse of the public domain. I think they are all taken care of. But we are not going to take care of the 50-year-old abuses. If there is anyone around liable for those, they are going to be made to pay for it. But do not expect today mining industries which pay wonderful salaries to working men and women in America—and none of them are super rich.

I can say to my friend, the State of New Mexico had the largest open copper pit in the world known as Santa Rita Mine. It was a placer mine when it started, Federal land, patented years ago. Seven, eight years ago, I was constantly on the floor trying to protect copper produced in America from cheaper copper produced elsewhere. They did not go broke, even though they did in the Midwest; Kennecott and others closed their mine in some of the other States. Ours, they stayed alive by the skin of their teeth, and then they found more efficient ways to produce and they are alive today.

Put an 8 percent royalty on top of that competitive situation and you would have Santa Rita closed down 8 years ago. The 1,400 miners working there in the State of New Mexico at an average pay of $28,000 a year, which is excellent pay in our State, with good fringe benefits and the other things that go with it, living in a beautiful part of New Mexico, they would be gone. And you would say, "We got some royalties, though." Of course, you do. Just about enough for all of them to be put our of work.

Now, I want to close by saying it does not matter what royalties you put up on a chart and say that coal pays this, and there is a Newmont Mine where a private company, private property owners got a royalty. You are talking about the entire hard rock mining industry of this country, or at least 98 percent of it. And without exception you are saying, if you were close but you are hanging on, "Goodbye."

And I just suggested that no case can be made to do that in the interest of the environment, because the environment will be taken care of by the other reforms. And I need not quote John Leshy again, who says that is not the issue in the environmental cleanup. It is not the issue of royalties and direct taxes. You do the environment another way.

I do not want to wear my welcome out, but I believe the truth of the matter is that if we were to defeat the Reid-Domenici amendment and adopt the Bumpers amendment, which puts this royalty on top of all the other burdens they have today of compliance with all the environmental laws, we have effectively said to the American West, the multiple-use concept of our public domain which served us well in the times we did not even have competition in the world, we are going to just put a noose around your neck at the time when you really have competition in the world because we very much would like to import more of the hard rock minerals from elsewhere and not have it produced just so we can strut around and say we made them pay royalties because it is on the public domain, as if we did not get much from the business, from the jobs, the purchase of equipment, and the taxes which I have alluded to that are enormous.

Now, put some more on—$380 million—like nothing. They will all keep on producing.

I think you are going to get the yacht situation personified, but you will not come down here and repeal it because you will not know about it like you do with the yachts because it will just gradually, that quicksand will just gradually seep up on that mining industry and there will be all kinds of reasons offered. Some group will come in when one closes and say,"Oh, no, they were inefficient." Another one will close and, "Oh, no, they didn't abide by environmental laws." But what it will really be is we decided arbitrarily from the gross revenues now, they are losing money, they still pay it. Not a nice thought—that we have to put the royalty on because it just seems like we ought to.

I think we made a good case. I think we have dispelled some ideas that are not true, like there is no reclamation law today, there is no environmental cleanup required today. That is shown by putting these relics of the past up before us when there were not any laws. Of course, they are out there.

So I am hopeful that for those who might have been on the fence on this issue, they will lend us that good ear and think it through and not make that adage of, "Anything worth doing legislatively is worth overdoing"—not letting that apply to the thousands of miners in America who want to make a living to take care of their families.

I yield the floor.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

FREEDOM OF CHOICE ACT

Mr. MITCHELL. Mr. President, over the past few days I have received several inquires from Senators and from members of the press about the status of the Freedom of Choice Act. A number of incomplete and inaccurate statements and reports have been made in recent days. I take this opportunity to clarify the matter and to set the record straight.

For months, up to and including this week, it has been my intention to make every effort to bring the bill before the Senate during this legislative period. I was and am aware that opponents of the bill have the intention and, under Senate rules, the right to filibuster in an effort to prevent the Senate from ever considering the bill.

But that is a common occurrence in the Senate, and I am ready to proceed to see if there are 60 Senators willing to vote to consider the bill.

However, on Monday evening, I met with four Senators who are principal sponsors of the bill, and with the representatives of six of the national organizations which are involved in the effort to pass the bill. Those organizations are the National Abortion Rights Action League, the American Association of University Women, the Women's Legal Defense Fund, the National Women's Law Center, the American Civil Liberties Union, and Planned Parenthood of America.

Each of the four Senators and the representatives of each of the six national organizations recommended to me that action in the Senate be deferred until after the House of Representatives passes the bill. This was also the recommendation of the principal sponsor of the legislation in the House, Representative DON EDWARDS of California.

After giving the matter careful consideration, I have decided to accept their recommendation made unani-

mously and not to try to pursue this matter during this legislative period.

It is my understanding that the bill's supporters are working with the House leadership and it is my firm intention that the Senate will take up and hopefully pass this bill this year in this Congress following House action.

Mr. Speaker, I yield the floor.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1993

The Senate continued with the consideration of the bill.

Mr. SHELBY addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, I rise today in support of the amendment offered by the distinguished senior Senator from Nevada [Mr. REID].

I commend Senator REID at this time for his leadership and his perseverance on this issue, along with Senators BRYAN, DECONCINI, and DOMENICI.

This amendment, Mr. President, is of vital importance to the reform of the mining law as it relates to mining hard rock minerals on public lands.

I recognize the antimining forces that are seeking to repeal the Mining Act and to severely restrict mining have different agendas and probably will not support this amendment in any form.

However, Mr. President, I also believe that these western Senators' proposal is a fair and a reasonable compromise approach to addressing the alleged problems of the mining act that are periodically raised before this body.

This amendment, the Reid amendment, does not repeal the mining law, but will bring about needed reforms without imposing undue burdens on the hard-rock mining industry.

I speak as a Senator from a State east of the Mississippi that does not have the large hard-rock mining industry found in many Western States. Nevertheless, hard-rock mining is very important to my home State of Alabama, as well as the entire Nation.

The industries in the Eastern United States use and rely on the minerals produced mainly in Western States, and many Eastern firms provide products and services to hard-rock miners. Indeed, mining is an important underpinning for our Nation's economy. It is important for our national defense, for helping our trade balance, and for maintaining our competitiveness in the global economy. Our entire country would be adversely affected and thousands of jobs would be lost if western hard-rock mining is crippled by proposals that would gut the mining law and replace it with some questionable new scheme that mining experts tell us simply will be counterproductive.

Mr. President, I have followed this ongoing mining law debate as a member of the Energy and Natural Resources Committee, which has substantive jurisdiction in this area. I believe that the Reid amendment addresses the areas where greatest concern has been raised under the current mining law. If this amendment is enacted, mining critics can no longer contend that public lands are being given away to miners who patent their claims. In fact, patented lands have never been simply given for $2.50 to $5 an acre, as mining opponents have tried to make us believe. If there was a real land giveaway, all of the available public lands would have been snapped up long ago. Patents are very expensive to obtain. If anyone here has believed the reports that these lands are being given away, they will be surprised to learn that the minimum cost of obtaining a patent for a 20-acre mining claim is approximately $38,000—that is minimum cost—and mining claimants often will spend 10 to a 100 times that amount to obtain a patent. Such costs are anything but a giveaway.

In any case, the Reid amendment would require that the mining land be purchased for fair market value. Moreover, the horror stories we have heard regarding patenting lands for nonmining uses would be dealt with by provisions that will require the land to automatically revert back to the Federal Government if the patented land is not being used for mining purposes. The Reid amendment also would guarantee that patented lands are subject to minimum reclamation standards.

All Senators should remember that Chairman BYRDs' mark already contains a $100 annual holding fee for each mining claim. By agreeing to go along with that fee, our Western colleagues have already made a major concession in this debate, and addressed the allegation that the current law is not generating enough revenue off public lands.

However, given the insatiable calls for more revenues that now are sounded so frequently in this body, and given the many wild and misleading allegations that we have heard from those who are attacking the mining law, I must also point out to my colleagues that we cannot balance the budget on the backs of miners, and we should not attempt to do so any more than we should attack farming and agricultural interests in Alabama or Arkansas or New Mexico, or anywhere else. Some have suggested that the panacea for our revenue problems is to be found in imposing royalty on hard-rock mining. But, quite frankly, the hard facts suggest quite the contrary.

My review of the royalty issue suggests that hard-rock minerals are not readily amendable to Government royalties like a lot of other things. Experts have estimated that these minerals are about 10,000 times more difficult to find than leasable minerals—like coal, oil, and gas—and the metallurgy of most hard-rock mineral deposits varies so significantly from deposit to deposit and within a deposit that the costs of treating ore to produce pure or salable concentrate significantly reduces the chances of discovering a commercially developable ore deposit. On the other hand, leasable minerals need little or no treatment, are plentiful throughout the United States, are found in very large deposits and are not nearly as capital cost intensive to produce. As a result, leasable minerals can sustain a Federal royalty and usually still remain marketable at a profit, although the present Federal royalty on coal and oil and gas has caused serious shut down problems in some parts of the South.

A new Federal royalty would have severe negative impacts on our Nation's hard-rock mining industry, and it appears that such a royalty could actually produce a negative Federal revenue impact. A recent study of the effects on an 8-percent royalty gross income of hard-rock mining operations on Federal land demonstrates these potential adverse impacts. Prof. John Dobra's research and analysis in this area has found that such a royalty would result in a dramatic loss of domestic production of gold. An 8-percent royalty could cause 23 million ounces of gold out of a potential 70 million ounces to be lost from production at 22 major U.S. mining properties. This would mean that the amount of gold that could be produced at a profit by these properties would fall by more than 50 percent. This loss of production equates to a gross income loss of over $8.5 billion in these operations alone. A royalty would also cause a severe cutback in domestic exploration, which would result in many more job losses and a greater strain on State and local economies.

Senators should be even more disturbed to learn the possible negative impacts of such royalty on Federal revenues. Professor Dobra's study found that the revenue generated by an 8-percent royalty will be more than offset by declines in corporate and personal income taxes generated by the industry. In fact, when indirect costs are added due to the loss of production and jobs, the royalty would constitute an economic disaster for our country. Mr. President, I ask that a summary of Professor Dobra's findings be printed in the RECORD after the text of my remarks. I am sure that my colleagues will find this information on royalties as troubling as I have, and very interesting to read.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SHELBY. in conclusion, Mr. President, I again urge my colleagues

to support the good-faith compromise proposal being offered by Senator REID and several other Western Senators. The proposed amendment adequately addresses the real problem areas under the mining law, and it does so without severely crippling the hard-rock mining industry. Finally, I would urge that if others seek to add a royalty provision, or a patent moratorium, we should reject those additions as unnecessary and inappropriate at this time.

EXHIBIT 1

THE NEGATIVE BENEFITS TO THE UNITED STATES GOVERNMENT OF ROYALTIES ON HARDROCK MINERALS[1]

IMPACTS ON THE HARDROCK MINING INDUSTRY

An 8% royalty on gross income of hardrock mining operations on federal land would have severe adverse economic impacts on the industry. These negative impacts are best illustrated by referring to the attached modified Figures 14 and 16 of "The U.S. Gold Industry"[2]. Figure 14 shows the long run total cost, over the entire expected mine life, of producing gold at 22 major U.S. mining properties. These mines are expected to produce almost 70 million ounces of gold over their life spans at the cost indicated by the shaded area below the cost line.

The line representing the current average price of gold ($342/oz. June, 1992) crosses the cost curve at approximately 45 million ounces. This means that at the current price of gold, somewhat less than 45 million of the 70 million potential production ounces can be produced at a profit. Even at the gold price on July 29, 1992, of $356 per ounce, less than 48 million ounces can be mined at a profit.

Loss of Domestic Production—The effects of the proposed royalty are shown on Figure 16 where the 8% royalty has been added to the average cost curve (raising total costs to $364/oz.). The line representing the June 1992 average price of gold shows that somewhat less than 20 million ounces of the potential 70 million ounces of gold can be mined at a profit. Thus, the 8% royalty would cause about 23 million ounces to be lost from production, meaning that the amount of gold which can be produced at a profit by these 22 operations falls by more than 50%. This loss is not materially affected if the July 29, 1992, price of gold is used instead of the June 1992 price.

The loss of production of this gold due to the imposition of the 8% royalty equates to a gross income loss of more than $8.5 billion at $342 per ounce, or $8.9 billion at $356 per ounce. This loss would lower household earnings in the states where production occurs by more than $3 billion in the future and severely impact local and state economies that depend on the precious metals mining industry.

Although the impact of this nearly $9 billion loss will not be immediate, it should be noted that the U.S. has approximately 209 million ounces of proven, probable and inferred gold resources. This resource has the potential for over ten times the production used to calculate the $9 billion loss, meaning that the proposed 8% royalty has the potential to cost the U.S. economy in excess of $100 billion in current and future production. Clearly the imposition of the royalty will have a major destructive impact on the hardrock mining industry and local economies.

The result of this lost production will be similar to the impacts to the economy from the drop in gold prices in 1991. For example, Nevada experienced a 10% decline in direct employment as a result of a $20 decline in the price of gold. The proposed royalty would be comparable to a $30 decline in the price of gold. Consequently, it can be anticipated that the proposed royalty would cause the equivalent of an additional 10% drop in employment in the first six months after the royalty becomes effective. Within a year, the job loss would be in the range of 30%, representing a loss of 6,000 jobs.

Exploration Cutbacks.—A second likely consequence of the proposed 8% royalty would be a virtual 100% cutback in domestic exploration expenditures which, in 1989 and 1990 were in excess of $100 million. This cutback will cause additional job losses and a greater strain on state and local economies already suffering from a severe shortage of funds.

While the adverse effect of the proposed 8% royalty would be less critical if the price of gold increased substantially, it would only be so if costs remained static. On the other hand, the effect of the royalty would be far greater if the price of gold were to drop or costs were to increase, trends which have existed in the precious metals industry for the last 12 years.

Unfairness and Inefficiencies.—What this analysis shows is that taxes or royalties based on gross income are extremely unfair and generate inefficiency in the economy. This type of policy—government royalties on gross income—exacerbates the "boom-bust" tendencies of the hardrock mining industry, creating hardships for workers, businesses, and state and local governments. Virtually every modern treatment of taxation in the economics literature advocates taxes (government royalties) based on net income because taxation based on gross incomes produces inequitable and inefficient results. There is no viable economic reason to support the imposition of the proposed royalty.

IMPACTS ON FEDERAL REVENUE

The federal fiscal impacts of the proposed royalty are negative. That is, the revenue generated by the royalty will be more than offset by declines in corporate and personal income taxes generated by the industry. Indeed, when indirect costs are added due to the loss of production and jobs (creating greater burdens on the entitlement and state and local tax rolls), the proposed royalty constitutes an economic disaster for the United States.

In 1991 annual average spot prices, gold and silver production had a gross value of $3.7 billion (current GAO reports indicate that this amount will be only $1.2 billion for the current year, indicating the already declining amount of production due to continuing depressed metals prices). Based on the 1991 gross value, the proposed royalty would raise $300 million; based on the current GAO data, the proposed royalty would raise only $96 million. On the basis of actual experience, the long run impact of the proposed royalty at current prices would be to cut production in half after several years. This would result in approximately $150 million of revenue raised by the proposed royalty on gold and silver production, or only $48 million based on GAO figures.

These revenues are offset by the loss of revenue in the form of personal and corporate income taxes paid. The proposed royalty would be deductible for purposes of determining corporate income tax liability, and therefore the taxes paid on the corporate income would be lowered commensurately. The survey of the 22 major hardrock mining companies shows that they paid approximately $120 million in federal income taxes in 1991. The effect of the proposed royalty on both the level of production and the calculation of taxable income would be a tax revenue loss of about $70 million, leaving only $50 million of tax revenue actually received by the U.S.

Using the U.S. Department of Commerce RIMS multipliers, 1991 gold and silver production is estimated to have increased household earnings (individual income) by $1.6 billion. If production is reduced by 50%, this would result in a decline of $800 million in taxable individual income. Assuming an average effective federal personal income tax rate of 20%, this would reduce federal revenues on personal income by $160 million. Hence, as shown in the table below, the revenue raised by the proposed royalty would be more than offset by a decline in tax revenues, resulting in a direct net loss of the federal treasury in the amount of $80 million.

[In millions of dollars]

Royalty income	$150
Change in corporate income taxes paid	(70)
Change in individual income taxes paid	(160)
Net Revenue (Loss) to the Federal Treasury from the proposed royalty	(80)

[1] Excerpted by M. Graig Haase from a June 25, 1992 memorandum from John Dobra, Professor of Economics at the University of Nevada, Reno, to Michael Brown.

[2] Dobra, John L. and Thomas, Paul R., Executive Summary "The U.S. Gold Industry", 1991.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska [Mr. STEVENS], is recognized.

Mr. STEVENS. Mr. President, I am sure it comes as no surprise that I support the Reid-Domenici amendment. I think that it provides for payment of fair market value for patented land, it provides reclamation concepts for States without it, and provides for a reversion. I might add that I have proposed parts of this. It provides a reversion for lands that are currently not in the process of being patented. I will have a little bit more to say about that later.

I do think this is a good-faith attempt as we promised last year—when we sought the Senate's help to table the Bumpers amendment last year—to try to resolve the problem. But I want to talk a little bit about what is going on here. I would like to get into some of the history.

As I said previously, I regret deeply that I do not have the capability that my good friend from West Virginia has in that regard, to have within my ability instantaneous recall of the history that I have learned, but I do have some of it here before me. I hope that the Senate will be interested in the history of royalty provisions that have been attempted in the past by the U.S. Congress.

Let me first address why we are here. For 3 years now, the Senator from Arkansas has tried to impose a moratorium on the issuance of patents. In other words, regarding the mining

processes under the 1872 law, he has tried to stop those at the end of the pipeline, and say that after they have earned the right to title, the patents would not be issued; that past amendments were to prohibit the expenditure of funds for the simple purpose of administratively processing the patent which really is a deed, Mr. President. I said before, a patent confuses some people. What it is a deed issued when a minor has complied with the basic mining law of 1872.

This time, the Senator from Arkansas has brought us an entirely different concept, because it not only prohibits the expenditure of funds on accepting or processing patent applications—mind you, it now says "accepting" them. You cannot even accept them now to initiate the patenting process. Further, it will prohibit all legal actions challenging this moratorium after 6 months from the date of enactment of this appropriations bill.

It is basically legislation on an appropriations bill. It is one of the worst I have seen in terms of a legislation on an appropriations bill. I hope the Senate will be aware that it will close all the courts of the United States to any claim arising out of a patent application that is covered by this moratorium. I have never seen such a far-reaching legislative concept in an appropriations bill.

I might remind the Senate that I worked out a concept under the Alaska Pipeline Act, which took us weeks to decide, where we did decide to close the courts to a constitutional challenge against that act under certain very specific circumstances. There were law firms from San Francisco, New York, Washington, all over this country, that were involved in the framing of that provision. This one has been framed by the Senator from Arkansas, and it prohibits all legal actions challenging the patent moratorium after 6 months. It totally closes the courts of the United States to the miners of this country that may be injured by this moratorium concept.

I have never, never seen such a constraint on judicial review in my 24 years in the Senate. I have never seen such an invasion of an appropriations bill by a legislative process. If that is to come before this Senate, it should come from the Judiciary Committee. It has not come from there, and not even from the committee on which the Senator from Arkansas serves, the Energy Committee. I served on that committee for many years.

We have challenged the Senator from Arkansas to deal with the 1872 law under the legislative process. Year after year after year, he has come here and tried to put a rider on this appropriations bill to prevent the expenditure of money to comply with the law. The law is there. The 1872 law is there, but what this says to the administrative agencies, you cannot use the money to process those applications for patent. "Patents" mean that the mining process is at the point of coming into fruition.

I have asked, and my friend from Nevada has asked, along with Senator DECONCINI and Senator DOMENICI, that it be placed on the desk of every Senator, the possible impact of the Bumpers amendment on the economies of the individual Members' States. For instance, I have the one that we sent to Senator DURENBERGER. It points out that in Minnesota, in the last 3 years, $32,792,500 has been spent on goods and services by just 30 mining companies that we tracked. Only 30 of the mining companies of the country spent $32 million in Minnesota.

This amendment is going to stop those jobs. They will not be able to continue mining without continuing to get their patent to proceed in the West.

We who live in the public land States carry a special burden. I was asked by one of my interns the other day: "Why are you called a provincial Senator?"

I represent a State one-fifth the size of the United States. Every single agency in the Federal Government has a role in Alaska. Primarily, because the Federal Government is the landowner, absentee landowner, in my State. Everything we do we have to get a permit. We have to get a permit to land an airplane in a national park, and to cross Federal lands. There is hardly anything we do not have to get a permit for.

Most of them are free, by the way, Mr. President; the issuing of those permits is free. The delays associated with them is the problem.

(Mr. WELLSTONE assumed the chair.)

Mr. BYRD. If the Senator will yield, nowhere else in this great Government of ours are the States represented. The States are not represented in the other body. States are not represented in the White House. The President is not even elected by the people directly. The States are represented here. This is the forum of the States.

The Senator represents the State. His State is much larger than mine in territory, and somewhat smaller perhaps in population; but we are equal. We represent the States here. So I hope the Senator will not ever feel badly—I am sure he does not—because he represents his State very well. He is effective and able and, by the way, he is honest and forthright. The Senator represents the State well, and no Senator should ever be embarrassed, if he is called provincial. I represent my State, my people, and I also represent the Nation the best I can. I thank the Senator for yielding.

Mr. STEVENS. Mr. President, as usual, I am thankful for the fact, and I am privileged to serve with the Senator from West Virginia. He is right. That was the impression that my interns asked me about, and I think it is right, that those of us, however, that come from Western States have to be involved in so many individual situations that would not arise in the nonpublic land States; that is my point.

But the moratorium trend is what disturbs me, because my good friend from Arkansas, as I pointed out this morning, is from a State where the land was given away. In 1882, Federal land was sold or given away in Arkansas, 426,747 acres. There was paid for that $157,000 total.

In 1883, it was 461,215 acres of Federal land, and this time for $192,000.

We have a whole tab, I might say, available for the Senator from Arkansas, should he like to discuss the disposition of land, in terms of the lands that have been sold in Arkansas. And 2.382 million acres were given under railroad grants in Arkansas. That is, 7 percent of the State of Arkansas was just given away. How many valid mines were located in that, we do not know.

Since statehood in Alaska, in 33 years, less than 1 percent of the State has gone into private ownership—1 percent. In terms of obtaining land under the various acts that were applicable in the West, in the past, the Homestead Act, the Trade Manufacturing Act, the Small Tract Act, many acts that were passed by Congress to give incentive to go to the West have all been repealed. I think westerners, in general, and miners, in particular, would be very pleased to have the Arkansas deal. They have paid an average of $5 an acre for the land that was sold, not counting that which was given away in Arkansas.

We have had to fight for every inch of land that has been made available for private enterprise in Alaska. I think the Reid-Domenici amendment answers the questions that were raised here last year about giveaways.

We were told the Government was giving away lands because there was a patent fee of $2.50 an acre. That was for the administrative costs of processing it. It was not the cost of being entitled to the patent.

The economic impact of what the Senator from Arkansas is trying to do, changing the mining law fundamentally, preventing a challenge of that in court after 6 months, is going to affect every State in this Union.

The mining industry surveyed 30 companies—only 30 companies, and there are hundreds of related companies in the country. In Delaware mining companies spent $3 million; Connecticut, $13 million; Indiana, $17 million. There is not a State in the Union that is not going to be affected economically in these periods when we are trying to create jobs. The Bumpers moratorium is going to kill jobs.

I urge that the Members of the Senate be aware of what is happening here.

We asked the Energy Committee in good faith to proceed with a bill to deal with the mining law, to bring the recommendations to the Senate. What happened was the Senator from Arkansas, himself, killed that effort in the authorizing committee. He killed it, because he offered what was called in the committee itself a Trojan horse, a better bill to take to conference to work out with the House of Representatives the amendments to the mining law of 1872. It was not a bill that dealt fairly with the concepts of the fees that we are talking about here, the $100 figure that is in the bill that has been added by the Senator from West Virginia. It did not deal with the fair market value concepts. It did not deal with royalty, and it did not deal fairly with the patent situation.

We are told repeatedly here that this is a giveaway. Let me tell the Senate: The expenditures to perfect a claim and take it to patent are astounding when you think about it. Let me tell the Senate once again that it cost $2,200,000 to patent 20 claims in Alaska. That was $5,500 per acre and that mine still is not in production.

We have had a series of other mines that are held up in Alaska because of the constraints on patenting that already exist.

Mr. President, let us just go to gold claims for instance. The gold mines in Alaska are primarily individual miners. We now have an average cost of production from a placer mine in Alaska of $317 an ounce. That is 70 to 75 percent of the market value for gold. In other words, even with the existing law, miners being highly regulated already by Federal law. For instance, miners are required to have a mine plan, a reclamation plan, a special use permit, a reclamation bond, the Corps of Engineers wetlands permit, a solid waste management plan, explosive storage permit, a mine safety and health administration training plan, and a national pollution discharge emission permit.

When you look at the cost of complying with existing laws, no one can stand on the floor of the Senate and say that it is a giveaway to develop a mining claim on Federal land. All of those costs paid by the miners are employing people throughout this country.

It is time for us to get down to some of the basic problems. The problem I particularly want to address is the history of the mining law with regard to royalties.

Mr. President, I ask unanimous consent that the summary that has been prepared for me by Chuck Hawley, one of the distinguished miners of Alaska on mining in Alaska, a summary of the mining law on public lands be printed in the RECORD after my comments here today.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. STEVENS. Let me point out in this short history Chuck Hawley relates how Congress has tried royalties before. For instance, in 1863 and 1864 Congress considered placing a 5-percent royalty on production. That was rejected at that time because of the history of the 10-percent royalty on production which was placed in effect in 1807 and rejected by the Congress in 1826.

The difficulty is that after those royalties were placed in effect, most of the mines went out of business. The royalty was actually reduced down to 6 percent in 1835, but neither the miners nor the smelters could or would pay the royalty.

The Midwestern copper mines also were stalled and Congress actually tried a 25 percent royalty before it was through. They were all dropped and the land fees reduced in order to restore mining in this country.

Hawley's history of mining shows definitely that in terms of dealing with the mining industry in this country, we have had full production where Congress relied upon the income to the Federal Government through taxes, employment taxes, the taxes on corporations, the extensive taxes that come through the development processing and mining, the actual mining of minerals, but Congress abandoned by 1872 the whole concept of royalties of mine production.

I urge Members of Congress when they have an opportunity, if they are interested, to look through the whole history of the experiments on royalties and see what happened. There is no question that the previous attempts to impose royalties on production from Federal lands failed, absolutely failed, and Congress eventually, in its good wisdom, eliminated them.

The 1872 mining law has had a history that has brought our mining industry to where it is today. I think that there is no question that it has been a successful one.

Let me point out that it once more delineated and shown to have commercial value as in the case of Greens Creek mine in Alaska. The company had to spend over $25 million to bring 23 mining claims to patent. That is getting an ore body ready for production.

I will ask the Senator from Arkansas to explain to us how that is free. There is no one in this country ready to bring these ore bodies to production except the mining industry itself. Mining does in fact create wealth. It creates jobs. And as I have shown with the letters on every Senator's desk, it has created a whole series of basic jobs in every State in the Union.

Mr. President, the problem that I really have in dealing with the position of the Senator from Arkansas is that, as I have said, it is without question extreme legislation on an appropriations bill, and how do we deal with it? We deal with it with the Reid-Domenici amendment which, by admission, is legislation as an amendment.

I wish the Senate would set a precedent and just do away with this concept and let the legislative committee come before the Senate with a recommendation, a recommendation that can be debated at length and not involve a concept of unfairly penalizing the very people that have used the existing law to fruition. Those who are ready to bring the mines into production are the ones that will be penalized first under the Senator's proposition.

He does not stop the filing of mining claims. He does not stop the assessment work in mining claims. He does not stop buying equipment to put mines into production. He does not stop anything except the final piece of paper that gives a miner the ability to borrow money under our free enterprise system to create new jobs.

I cannot believe that the Senator from Arkansas has made some of the comments he has made today. There is no question that new claims are subject to reclamation concepts. Since 1974, we have had those on forestlands operated under a notice or plan of operation. Since 1981, all exploration mining operation on BLM have been operated under an operation plan or notice. All of those include a reclamation plan.

The rules for reclamation already require saving of topsoil for final application after reshaping of the disturbed area is complete, measures to control erosion, landslides and water runoff.

Every operator is on notice that they must have a plan. Those, in particular, up to 5 acres, are still covered.

The Senator from Arkansas apologized to the Senate saying he made an error and said those below 5 acres. I have to tell the Senator from Arkansas he is wrong there, too. The 5-acre threshold does not exempt a miner from having a plan and they must have a similar concept involved in the plan that deals with reclamation.

The problem with royalties, in my opinion, is that royalties are a business expense. Our miners barely compete with the world today. And just as happened in the 1800's, if the Congress puts a royalty on mines on public lands, we will then see a differential between public lands and private lands as far as costs.

Further, it will reduce the incentives to develop these deposits on Federal lands. I guess that really is the goal of those people who oppose the mining law of 1872, to shut down access to the Federal lands for the development of the minerals there.

I believe that we have available a 1990 study by the Public Resources Associates, using BLM data, which shows the cost of administering a royalty system would exceed the revenue. Let me

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repeat that. A study by the Public Resources Associates, using BLM data, shows the cost of administering a royalty system would exceed the revenues from such a system.

The Senator wants royalties. None of the leading mining nations—Australia, Canada, South Africa—impose Federal royalties. There are some provincial governments that have them in lieu of an income tax. But we should not get into the concept of changing the mining law of 1872 with regard to royalties or changing the manner in which patents are issued or closing the courts of this country to mining and miners without some action by the legislative committee.

I see the Senator from Arkansas is on the floor today. I would ask him: Why has not the Energy Committee brought to the floor of this Senate a bill to change the mining law if it is so important? That is the committee of jurisdiction.

This is a basic change in the mining law of 1872. It does not belong on this bill. It is legislating on an appropriations bill. It ought not to be here.

But in particular, I am incensed as a lawyer over the closing of the courts of the United States to a challenge against this action, totally closing them after 6 months. No one could possibly even go to the court and say "I have been wronged by this." That is wrong. I think also it is unconstitutional, by the way.

There is a way to do it, and that is not the way to do it.

Now there are national security issues here I would like to get into. There is a whole series of other issues I would like to get into.

I am not going to really belabor the Senate, in consideration of my good friends from West Virginia and Oklahoma, because I know that they want to get on with this bill, and so do I. The bill has many things that apply to my State, that apply to the public lands of our country and those who are stewards of resources of our Nation.

We need this appropriations bill. We need it as soon as we can get it. I think it is a good bill. It is within our allocation. It is not a bill that in any way should be tinkered with with a veto or anything like that. It is a good bill.

The real problem, however, is that this Senator has stood and watched the moratoriums that have been placed on the oil and gas industry, the closure of public lands to the oil and gas industry. And do you know the result of that, Mr. President? Marathon has moved. Marathon Oil Co., one of the substantial oil companies in my State, has moved. It is now in the Sakhalin Island exploring for Russia. ARCO has now moved. It is in China exploring the South China Sea and East China Sea. Chevron is on the mainland of Russia. BP is moving to other places in the country and overseas.

We have massive buildings in my State that were built within the last 15 years by the oil industry that are vacant. We have whole subdivisions that are vacant. Why? Because the oil industry cannot operate on the public lands of this country in our State any longer, it is so expensive, in the areas where they are open, and most of them are closed anyway.

Now here we come up with another concept, and what is it? It is close the public lands of this country to mining. That is the objective of the Senator from Arkansas. And he ought to have the courage to say so. Because he is putting a moratorium on the issuing of patents on claims that were filed 15 and 20 years ago.

Now why in the world would the Congress of the United States want to say to people who have pursued a particular Federal law all the way through the process of going out and trying to locate a mineral deposit, filing a claim on it, then going back and establishing each year the operations that are necessary to perfect that claim, taking it to the point where it is capable of being proved that minerals can be recovered in substantial quantities, commercial quantities, getting it ready—and this is one thing I said I would get back to—what for? To file an application for a mineral survey.

That is something new in recent history, Mr. President. You do not go just for a patent anymore. You file an application for a mineral survey. In other words, first, before you can seek a patent, the Federal bureaucracy has to tell you, you were right in the first place, that it is in fact a valid claim. And they assess that and then you may go to a patent.

Now, I say to you that the objective of shutting down the mining industry on public lands in the West is important. But I say to you in all sincerity it is a matter of life and death for Alaska. We have lost our major industry in terms of resource. The oil and gas industry is leaving. We still have a substantial fishing industry. But our major resource industry that is left there now is a mining industry.

As I said to the Senate this morning, it is operated basically by Canadian companies. And I am going to speak at length on the floor sometime about that, why it is so that only Canadian corporations can afford to operate in Alaska today.

But beyond that, this moratorium sought by the Senator from Arkansas will be the death knell of the last major resource industry in my State. Timber has been shut off. Except in two places in Alaska, there is no timber operation. We have almost half of the timber that is capable of being harvested in the country. We have half the coal of the United States. We have 21 of the 23 critical and strategic minerals of the United States. Not one of them is being mined today.

Now, this Congress has the ability to assure that the resource base of Alaska is used for the benefit of the Nation or it can set this trend once again, as it did in oil and gas, and say the Nation does not need the resources of Alaska.

I feel deep down in my heart this is the target of the Senator from Arkansas, is to stop mining in Alaska. They almost did by the land that was withdrawn in 1980. Most of the land that had mining claims was withdrawn.

But do you know what? Congress could not cut off the validity of the existing mining claims. They were protected. The only way to cut them off was to buy them.

Now we have discovered another way. Kill them. Do not let them have a patent. Do not let them have the one thing they have worked their lives for, that gives them the title to their land and the right to develop the resources.

In other words, Mr. President, I hope the Senate will consider that statement as an opening statement that will occur if the Reid amendment is not adopted and the Bumpers amendment is not tabled. This bill to me, as important as it is to Alaska for fish and wildlife and for mines, for timber development, for all of the subjects that are covered, it is not important enough to kill the mining industry of my State, and that is what the Bumpers approach would do.

It is time to say "Take this back to where it belongs, to the Energy Committee."

It should not be on this bill. As a matter of fact, I am still considering making a point of order, and I yet may make it. We will wait and see what happens to the motion to table the Bumpers amendment.

This should not be on this bill. I have been accused of a lot of things in my day in terms of riders on appropriations bill, but I never tried this. I never tried to put a provision that would close the courts of the United States to rightful claims to challenge the actions of Congress. That is what the Senator from Arkansas does, and I think it is absolutely wrong.

EXHIBIT 1

GEOLOGICAL AND GEOPHYSICAL CONSULTING SERVICES

(C.C. Hawley & Associates, Inc., February 1991)

THE MINING LAW AND PUBLIC LANDS

". . . with the growth of individualism the miners and landlords obtained steadily wider and wider rights until well within the 19th century. The growth of stronger communal sentiment since the middle of the last century has [however] already found its manifestation in the legislation with regard to mines, for the laws of South Africa, Australia, and England, and the agitation in the United States are all toward greater restrictions on the mineral ownership in favour of the State." Herbert and Lou Henry Hoover, 1912.

It is now a certainly that the 102nd Congress will reconsider the body of law that

governs the discovery, ownership, and production of the most valuable metals and nonmetals in the western United States. Among all current laws of the United States, the "Mining Law of 1872" (the Mining Law) may well be the one most vigorously defended and attacked by its users and opponents. Opposition to the law is not new; it is as old as the law itself. What is new is the strength and organization of the opposition.

The Mining Law, however, has strengths not contained in any new law yet proposed as its replacement. Largely because of its heritage in the 19th Century, the law has a democratic basis that allows for the widest possible participation in the mining industry. The costs of discovery and development of national mineral reserves are borne mainly by the private sector. Because of the self-administration inherent in the law, the need for bureaucracy is minimal. Because most of the revenues from mining have stayed in the private sector, dollars have been available to develop technology, to pay wages to skilled workers, and to conserve and ultimately produce low-grade ores after high grade ores have been exhausted. Today a higher proportion of dollars is also needed to pay for environmental protection. Historically, the benefits of technology development, high compensation of workers, and conservation of resources have not accrued in economic systems where aims have either been complete mineral self-sufficiency or maximum revenues to the State.

Although the Mining Law attracts special attention, it is only a part of a broader debate on the lands of the Public Domain. Will these lands continue to be used extensively for grazing, forestry, mining, hunting and other hardier types of recreation or will these uses largely be phased out for softer recreation and vicarious enjoyment? Traditionally, the public lands of the United States were used to produce food products, timber, and minerals for the nation. Recreation was of value to those who lived in the public land states but, except for the National Park System, national interest in and knowledge of the rest of the public lands was lacking. Today national interest views reflect a rapidly expanding population that has instant pictorial access to the beauties of the West, as well as leisure time to physically enjoy those resources. As a result, there is more concern regarding management of the public lands, and quite a few eyes are focused on the mining law.

What is this entity that invites such attack and vigorous defense? Basically, the law encourages all Americans to enter the Public Domain and search for minerals. If a discovery is made which, in the view of the prospector is valuable, one or more mining claims of about 20 acre size can be "staked" or located. By diligently exploring the claims the miner can hold the claims against another private claimant. If sufficient ore is so outlined that a government mineral examiner finds that the prospector has made a prudent and marketable discovery, the claims are also then recognized as valid by the government, and can be patented. Patent is a fee simple title to both the mineral and surface estate of the claims. Patent is not required; it is at the option of the claimant.

Unpatented claims also are a property right. They can be sold, traded, leased, or mined. But the right is not as secure as patent and the claims must be maintained by annual labor. The claims can be challenged, at any time, by government in a validity determination. The risks to the miner are not all from the government. A locator who is not diligent in exploring a claim can be subject to an action in state court filed by another prospector who has made a discovery on the claim in the absence of the locator. Unpatented claims revert to the Public Domain when the ore is gone or if maintenance work stops.

Only certain minerals are subject to the law. Gold, silver, copper, other metals, and certain non-metals can be located under the Mining Law. Coal, oil and gas, phosphate and most other minerals which tend to form beds or layers cannot be obtained under the mining law but are leased (Mineral Leasing Act of 1920). Common varieties of building stone and most deposits of sand cannot be staked or located, a part of the law clarified by statutes passed in 1947 and 1955. These and many other modifications show that the term "Mining law of 1872" is only a short-hand means of describing an entire framework of law for the "locatable" minerals. This body of law is described in United States Code, Title 30.

The Mining Law operates only on the Federal Public Domain—Federal land not withdrawn or classified for other uses—and certain lands of the United States Forest Service (Forest Service). The Public Domain is administered by the United States Bureau of Land Management (BLM), and most but not all BLM lands are open to the mining law. Lands administered by the National Park Service, Fish and Wildlife Service, and any lands of the Wilderness System, regardless of administrator, are not open. In the western United States, most non-wilderness lands of the Forest Service are open to location.

But the Public Domain and the public land base open to the mining law have decreased significantly since the 19th Century. Nationally, the Public Domain originally consisted of about 1.8 billion acres out of the total 2.3 billion private and public acres contained in the United States. Many of the Public Domain lands in the midwestern and plains states were never open to mining location; most of the western lands including Alaska were originally open to the Mining Law. The public lands of the United States now total about 690 million acres. About 300 million acres of these lands remain open to mining location; about one quarter of the open lands are in Alaska, and all the western states contain extensive areas open to the Mining Law.

The Mining Law originated in the same period as the Homestead Act and, because both laws opened the land to entry and acquisition mainly by the toil of the locator, the two laws are often compared. One implication is that while both laws were timely once, neither is timely now. Those that oppose the Mining Law would like to see it follow the Homestead Act into oblivion. The circumstances are not, however, parallel. Most of the arable lands of the United States have been identified and are in private ownership: These lands are sufficient to feed the nation and a large part of the rest of the world. The mineral estate cannot be appraised as easily as the arable lands. If those minerals that are rare and difficult to discover still can be found and developed efficiently under the Mining Law, the law is not outdated.

There is also little basis for comparison of the Mining Law and the Homestead Act in their relative effect on the Public Domain, past and present. Agriculture still uses the most land of any modern activity. Mining uses the smallest. Metallic mining has used less than one half of one percent of the land in any of the Western States. In Alaska the percentage is in the range of hundredths of a percent. According to United States Bureau of Mines' statistics, less land had been used by mining in Alaska than in any other state, including Rhode Island. These statistics were reported in 1980, but mining use has not changed significantly since that time. The relative effects of the Homestead and Mining Acts on the Public Domain are clearly shown as percentage in items 2 and 15 of the following table.

Table—Where has the public domain gone?

	Percent
1. Unclassed public, private, and preemption sales	26.2
2. Homestead Act	25.1
3. Railroad Grant and Construction lands	11.5
4. Lands for public improvements, reservoirs etc.	10.5
5. Common School lands	6.7
6. Reclaimed swamplands	5.7
7. Veteran's grant lands	5.3
8. Confirmed grant lands	3.1
9. Hospital and asylum lands	1.9
10. Timber and stone law lands	1.2
11. Timber culture (reforestation) lands	1.0
12. Desert reclamation lands	0.9
13. Canal and River Right of Way lands	0.5
14. Wagon Road Grant lands	0.3
15. Patented mining claims, other than oil shale	0.26
16. Patented oil shale lands	0.04
Total about	99.9

SOURCES: Public Land Statistics 1989, V. 174, and other BLM documents.

Out of the more than 1.1 billion acres formerly in the public domain and now in private or state ownership, only about 3.5 million acres have been patented under the mining law. At present patents continue to be granted, but at a very low rate. Except for a bulge in patent acreage in 1987 due to grandfathered oil shale titles, there is no evidence or trend suggesting that pressure to patent is increasing. Contrary to statements in some of the media, patents are extremely difficult and expensive to obtain. Undoubtedly to those who dislike the mining law any patent is unacceptable, but perhaps to others the numbers above may suggest the proverbial tempest in the teapot. Statistics on Alaska mining patents are not separated from those in the rest of the United States, but a fair estimate of the land patented for mining in Alaska is 100,000 acres—out of the 378 million acres comprising Alaska.

Almost all aspects of the Mining Law are controversial, and the areas that users believe in most strongly, such as self-initiation, are often the most strongly attacked. It is stated or implied that mining claims can be held and patented for practically nothing, and that the nation is losing vast amounts of wealth because of the lack of royalty. These arguments are often given in ignorance of the nature, cost, and benefits of the mining industry.

Many people believe that self-initiation, the encouragement for persons to freely enter the public domain in the search for minerals, is the true basis of the mining law. Self-initiation is certainly a democratic basis, and one that has a direct tie to a free market system. Any American citizen, U.S. Corporation, or foreign national with declared intent to become a citizen can locate claims on appropriate public lands. As long as only hand tools are used and there is no significant disturbance of the lands, no notice is required in order to search for a deposit. There is no requirement of great

wealth. Although much is made of technical requirements of prospecting in the 20th century, the truth of the matter is that many discoveries can still be made with a geological hammer, a shovel and an observant eye. That ancient instrument, the gold pan, is still effective. Perhaps the modern prospector will send his panned concentrate to an analytical laboratory to search for some elements, but the presence of heavy elements like gold, platinum, mercury, tin and tungsten is fairly obvious, and the prospector has only to go upstream to look for the source. It is not easy, of course, but the idea that only large sophisticated organizations can find minerals today also is erroneous.

Detractors observe that other systems work. Mining companies pay large sums to obtain prospecting concessions in undeveloped countries. Socialist countries have used vast sums to prospect and have been successful in establishing mineral production. But no other system searches for such a large range of deposits, in terms of size and richness, and uses the observational and entrepreneurial abilities of such a wide range of people. The private sector maintains an inventory of the mineral wealth of the public domain, at little cost to the taxpayer. The incentive is that the deposit found belongs to the discoverer—either a limited ownership if claims are unpatented or complete ownership if claims are validated and patented.

Within the wide range of all classes of prospectors and claimants, there is a reservoir of knowledge that can and will be tapped if economic conditions change. If commodity prices begin to increase for metals such as gold, or platinum, or yttrium, or beryllium, the reservoir is tapped. Old claims are restated. New prospects are sought. If elevated metal prices are stable for several years new production results; if they drop immediately, the prospects may be relinquished, but the knowledge gained is there ready to be tapped at a later more auspicious time.

Lease systems cannot and do not respond in the same fashion. By the time a government agency has determined that a favorable market condition exists, and a sale is scheduled, the market window may well be gone. Also because of the financial requirements for lease eligibility, only a fraction of the players exist. The players at the bottom end of the scale are squeezed out in favor of the large corporation.

One of the main problems with the use of a lease system for hidden metal deposits is the determination of value. The value of the discovery will be apparent only after several years of exploration and studies of metallurgy and mining methods; prior to this determination what is there to lease?

Leasing stifles the incentive to explore and develop geologically rare and complex mineral deposits.

A SHORT HISTORY OF THE MINING LAW

"They are adventures, adventures of the common man . . . In the gold rushes tens of thousands of men took part, and although many faltered or fell by the wayside, the best of them evolved a new type of self-reliant, careless social life. With all its faults, it had a fine savour of the spirit of adventure, which is the salt of history."—MORRELL, 1968.

The Mining Law did not suddenly emerge from the Congress in 1872. It followed about 80 years of uncertainty and experimentation with public policy on mining. But it was also founded on law and a tradition of free mining that can be traced back to the 13th Century in England and in central Europe.

The present debate on mining is similar in several respects to the debate that occurred between the early 1800s and 1866, when Congress passed the first mining law to resolve the issue. Congressmen who distrust individual initiative and ownership today would have found natural allies before 1872.

Some exploration and mining took place in Colonial times. Early explorers hoped to find metals, and the charters of the London and Plymouth companies reserved one fifth of any precious metals discovered and one fifteenth of copper to the crown. Prospecting, especially in the Jamestown colony, discovered iron ore but no precious metals. In later Colonial time small quantities of lead, iron and copper were mined, but mining and especially metal processing were discouraged so that the colonists would buy articles manufactured in England. Because of the lack of success in prospecting for precious metals, many people in revolutionary times, including Benjamin Franklin, believed that northern North America did not contain significant deposits of precious metals and probably would never be a significant producer of gold and silver.

The first important gold discovery in the new country was made in 1799 on private land in North Carolina. Mining developed into a small but consistent industry; the miners, often neighboring farmers, paid to the property owner from one-third to one-half of the gold recovered. The first real gold rush in the United States, with attendant land problems, occurred on private and Cherokee land in Georgia in 1829. The mineral province discovered in the southeastern United States was an important one, but in terms of the 19th century West, the main importance of the discoveries in the Appalachian region was that many Americans, including the Cherokee, learned how to prospect for and to mine gold.

The first successful mining on the Frontier, the land that became the Public Domain, was for lead—a necessary ingredient of shot and bullets. Lead was mined on a concession from the French Crown from about 1720–1740 in what is now Missouri. Further north, Julien Dubuque established an excellent relationship with the Sauk and Fox Indians and mined with them in what is now Iowa, Illinois, and Wisconsin from about 1775 to the Louisiana purchase (1803). After purchase, Congress intended that lead mining should continue. A lead mining act was passed for the newly acquired territory on March third, 1807. A royalty of 10 percent was established on production. Mining on a concession under the Act was carried out successfully by James Johnson from 1822 until about 1826, but in only a few years most production came from independent miners producing ore in trespass. To make it more attractive to miners, the royalty was reduced from 10 to 6 percent, but by 1835 neither miners or smelters would pay a royalty.

The first major mineral discovery in the United States was of the copper deposits on the Upper Peninsula of Michigan. Copper had been produced there on a small scale by Indians for hundreds and possibly thousands of years and was known to French missionaries by the 1600s. Pioneering geological work by Douglass Houghton in the 1830s established the possibility of a major copper province. Following a treaty with the Chippewa in 1843, the government granted copper mining permit areas of 9 square miles with a royalty of 20 percent. Some copper was sold from copper boulders in the glacial cover, but the royalty was too high for the value of the copper. It also soon became evident that successful extraction of copper would mean deep mines and their large attendant costs. In order to induce activity, the royalty was dropped and the lands were offered for sale at $5.00 per acre. The price was finally dropped to $1.25 per acre and significant activity began. From about 1850, the Michigan mines produced immense amounts of copper. The mines were finally developed to a depth of more than 2 miles down the dip of the lodes, and production was sufficient to maintain U.S. copper supplies until the late 1800s when western mines became dominant.

After the indifferent success of leasing and sales of mineral land in the early 1800s, Congress was fairly well divided on what to do next. Should mines be proved up like the homesteads backed by the Free Soil party, or should mineral lands be sold or leased?

Events resolved the question. Although there was some gold mining in Spanish and Mexican California, mining was a very minor industry. But only a few days before the actual passage of title of the California territory from Mexico to the United States in 1848, James Marshall discovered gold in the mill race he was building for John Sutter. The discovery was only about 30 miles from modern Sacramento. Although secrecy was sought, the word was out almost immediately. The greatest Gold Rush in history was on.

It is doubtful that the rush could have been controlled by any available combination of law and authority. California was, then, under a military government. Officers in charge did not believe the rush could be restrained: Colonel Mason and his successors, with a few reservations, also believed that the rush with its discoveries, and the growth of supporting population and industry was in the best interest of the country. Licensing and military force were considered but rejected. Laws were needed, however, and were supplied by the miners themselves.

Although guidelines varied in camp after camp, miners established local regulations that rewarded discoverers with claims and established rules of mining. Procedures of recording were adopted and a rough but generally effective and accepted justice system established. Early 1849 was in the opinion of some scholars free mining at its best. There was adequate room for all, the camp followers of a gold rush had not yet arrived, and the dominant tone was for free mining occurring in a democratically administered society.

The placer gold rush sustained itself for several years. And discovery of the first lodes or hard rock deposits continued the rush. The lodes were incredibly rich and, just as important, processing was not difficult. The hard rock deposits first yielded their gold to the arrastra, a primitive crushing device well known to Mexican miners, and next, to the stamp mill familiar to German and Cousin Jack (Cornish) miners.

Although rich ores were rapidly exhausted, the region was so large and widely mineralized that discovery followed discovery. Congressman watched; it can be assumed that some liked what they saw and some did not, but discovery and production of mineral wealth was happening on a scale not conceived of a decade before. In 1863–4, Congress did consider placing a royalty of 5% on production from the mines but rejected the idea, at least partly after extensive testimony from Western miners. The miners pointed out that, although vast amounts of metals were being produced, much of the profit was consumed in development of mines and processing technology and in transportation and

other costs. Further, there were more pressing events: From 1860-65 America was consumed by the Civil War. The great wealth pouring from the gold mines of California and then the silver-rich Comstock lode in Nevada was needed and used to sustain the Union. The North financed the Civil War with "greenbacks", but this currency had value because of its backing with precious metals.

President Lincoln was well aware of the importance of the miner's discoveries. On the fateful afternoon of April 14th, 1865, President Lincoln told Speaker of the House Schuyler Colfax that he should proceed with a scheduled visit to the west for that summer and that he, the President, would give the Speaker a message to the people of the west on the importance of their gold and silver mines in the coming peace.

Although the Mining Law is commonly referred to as the Mining Law of 1872, it is almost as accurate to call it the Mining Law of 1866—the date that the fundamental character of the law was set. The main protagonists then, as in the debates on the law in Congress in 1990, were divided regionally. George Washington Julian, the Representative from Indiana, proposed that mineral lands be subdivided and sold. Senator William Morris Stewart of Nevada proposed to ratify the free mining practices adopted since 1849, and also to allow the discoverer to purchase the discovery for a nominal fee. Other western Senators sided with Stewart in the basis concept of self-initiation and discovery, but believed that adoption of all practices favored by the mining districts could result in serious problems later. With his powers of debate, Stewart won the battle in the Senate but Julian stopped the Senate bill in his Public Lands Committee in the House. The western view prevailed when Stewart changed the body of a canal right-of-way bill and sent it to the more favorable House Committee on Mines and Mining. The "mining bill" emerged as "An Act granting the Right of Way to Ditch and Canal Owners Over the Public Lands, and for other purposes" in March 1866.

The act of 1866 memorialized self-initiation and discovery and relatively small size of claims and other features to prevent monopolization of discovery. It also put into law the concept of extralateral rights: If a vein of gold was truly vertical it would stay within the side lines of a claim as they extended into the earth. But, in the more common case, a vein was not vertical but dipped at a shallower angle and crossed the side line at depth. Extralateral rights allowed the miner whose vein was exposed (cropped out or "apexed") near the center of the claim to follow the vein off the side lines without staking additional claims on the flank of the discovery.

The 1866 law was modified in the Placer Act of 1870 and emerged in a semblance of its present form in 1872. The size of claims was enlarged. Although the law was largely to be self regulating, Congress reserved the right to make regulations and recognized the power of local law making bodies to provide the necessary detail that was not in conflict with federal law.

Serious critics of the mining law have pointed out that the system adopted was really most applicable in a bonanza situation, where numerous miners can profit from high grade ores and where mines can profit from the start of mining. The reality is that, once the high grade ores are gone, it is necessary to consolidate claims into larger groups and perhaps hold claims for many years pending development of access, capital, and technology. Extralateral rights, although fine in theory, proved exceptionally difficult to deal with in practice. Generations of mining engineers and lawyers became wealthy as the courts decided which veins cropped out or "apexed" on whose claims.

Although deficiencies in the law certainly existed and caused an excessive amount of litigation, the most serious technical deficiencies were corrected by 1920 with the encouragement of Congress and the Courts.

There was enough fundamental strength in the original concept to hang a law on.

DISCOVERY, DILIGENCE, AND TENURE: FINDING AND HOLDING A FEDERAL MINING CLAIM

"Art. VII—Resolved. That no person's claim shall be jumpable on Little Humbug while he is sick or in any other way disabled from labour, or while he is absent from his claim attending upon sick friends." Regulations of the Little Humbug Creek Mining District, Siskiyou County, California.

In the tradition of the gold rush, discovery and keeping a mining claim were the first and second problems. Without the first you could not establish your right to dig, but in most camps if you found gold and began to dig and kept on digging you could hold your claim. Diligence and tenure were direct and obviously related. If you left your diggings for a day or two, that is, if you were not diligent, your claims would likely be jumped. You did not have tenure and started over. Placer claims were limited in size and most often limited in number, with the discoverer usually granted more claims than those who followed. In some camps, a claim was 10 feet long or 10 feet square or perhaps the radius of a shovel handle. Lode or hard-rock claims were narrow and only 25 or 50 or 100 feet in length along the vein. Initially the soft, oxidized part of the vein could be mined and processed like the placer deposits, by washing the dirt. At a depth of only a few feet, however, crushing became a necessity. Miners' rules allowed some reasonable time, perhaps several weeks, to stop mining and build a crude mill.

Monopoly was not tolerated in the early mining camps. Even today in Alaska, long time placer miners may take a dim view of mining companies, and older miners at Flat may still speak of the "Googs" (Guggenheims) with some admiration but more contempt.

It is difficult for people today observing placer mining to realize how rich the virgin placers were. The near surface gravel could be nearly barren, with perhaps a few flakes of gold, but when the bed rock surface was reached it could be literally paved with gold. On the beaches at Nome, a miner could make a living in a claim the length of his shovel. Further inland at Snow Gulch, a narrow rill less than a mile long with gravel 3 feet deep, miners took out nearly one-half million ounces of gold. And at Caribou Bill's mine, an unusual pothole cut into bedrock, the average ground must have yielded about 2½ ounces of gold per cubic yard, with some pans containing one-third of an ounce. Some of the placers in California, Montana, and Colorado were as rich. Mines like these could be worked by individuals or small groups.

Events, however, dictated that mines should turn from democracy to capitalism. The rich placers and lodes were exceptional and were quickly exhausted. Left were larger areas that also contained immense total amounts of gold, but were not rich enough to be worked by hand by individuals. It was necessary either to have larger claims or to consolidate them into groups, and to develop labor saving technology to move ground more economically. By 1872, when Congress updated the Mining Law of 1866, the size of an individual claim had been enlarged to its present size—a maximum of 1500 feet along the vein and 600 feet across for lode claims and 20 acres, usually 1320 by 660 feet, for placer deposits.

Time was needed also to construct ditches or to raise capital for mining and milling machinery. In many camps, such as Central City, Colorado, much more advanced technology had to be used to recover the metals from refractory ore—the development took more than 5 years—so provisions were introduced to allow holding of claims. To be safe, a miner needed to be in possession of his claims, but he could hold his claim against another prospector if work equivalent to a minimum of $100.00 per claim was done annually. But with another part of the law, the miner could be fully protected by United States title if he spent at least $500 on development of his claim and had it surveyed. If the work on the claim passed the scrutiny of the mineral surveyor, an agent of the government, patent could be obtained.

In the early days, discovery was obvious. If the gold or silver was there, the miner started producing. But discovery was not nearly as obvious in a large deposit of ore that would not yield gold to the stamp mill. Discovery would also be difficult to pinpoint in a deposit of lead, for example, with a small amount of silver or copper with some enrichment of gold at the surface. These deposits generally needed a better transportation system than the mule or stage coach; they might underlie many claims, yet if they could not be presently mined was there a discovery? What if the new discovery was not shaped like a vein, but was more like a bed or a very irregular mass? How could the miner establish extralateral rights if the ore body was flat and, worse yet, did not crop out at all but was intersected in a shaft?

None of these eventualities were well considered in the Mining Law of 1872. Other western Senators had argued this with Senator Stewart of Nevada but had lost. Even today they sometimes cause problems, but two of the problems of discovery were solved in 1894 and 1919 in, respectively, the cases of *Castle* v. *Womble* and *Union Oil* v. *Smith*. *Castle* v. *Womble* helped by defining discovery with the Prudent Man test. Many outsiders looking at the mining industry consider a prudent miner to be an oxymoron, but the courts held that a discovery was valid if a prudent person would spend his own dollars in order to develop the claim. A discovery did not have to pay from the start. In patent proceedings, a second test, marketability, is also used.

In *Union Oil* v. *Smith* the court held that although discovery was still necessary to obtain patent, it did not make any difference if discovery came before or after locating a claim. A miner could make a location sufficient to hold his claims against others, but could not have the full benefits of title until a discovery satisfying the prudent person and marketability tests was made.

The concept of location prior to full discovery, called "pedis possessio", and the prudent person test are the true bases of the modern metallic mining industry on federal lands. The prospector finds evidence of mineralization and on the basis of his knowledge—influenced fully by competition at hand—stakes an area that includes the deposit as it is visualized. If the prospector is a professional, his or her ideas of size and

shape are strongly influenced by a sophisticated geologic model. The practical prospector is also guided by theory, which may not be as sophisticated but if it is based on good observations is often fully as valid.

Even though prospecting and making a pedis possessio discovery may be difficult it is just the bare beginning of a mine. The discovery is a concept, probably backed up by a few exposures of mineralized rock, that should hold against another prospector, but would probably not hold against a federal mineral examiner. The discovery must be validated.

Two of the provisions of the 1872 law that are most strongly criticized are the fee for annual labor ($100 per claim of 20 acres) and the fee to obtain patent ($2.50 to 5.00/acre), when the claim is validated. Neither has changed since 1872. But other factors have changed.

In the early high grade years an economic mining unit could be a 100 square foot block or a 50 foot length of lode. By 1872 it was recognized that an economic unit had to be larger, at least 20 acres, and several claims might be necessary for a mine. Today, although 3 or 4 claims could still be a mining unit for a small placer mine, a logical mining unit for a hard rock mine could include anywhere from 20 to 50 claims or more. The economic equivalent of what could once be held for $100 now would cost a minimum of $2000 or $5000 per year. Because of the escalation in what can be an economic unit in mining, the annual labor fee has in fact kept pace with inflation. A scheduled increase in fee structures would encourage diligence and discourage speculation in mining claims. But, in many cases, it could also effectively take the legitimate efforts of claimants that have made a potentially valuable discovery and are attempting to hold the deposit until it may be developed. If a discovery is in a remote region, it may be necessary to hold the claims for decades.

The patent transfer fees of $2.50 per acre for placer claims and $5.00 per acre for lode claims are perhaps even more widely criticized than assessment costs. The fees, however, have almost no correlation with the actual cost of obtaining patent. The major costs are in acquiring the data to establish the fact of a valid discovery and turning the discovery into what could be a mine.

One Alaskan example is pertinent to both the cost of validation and diligence issues. A hard rock mineral deposit in the Central Alaska Range was discovered in about 1909. When Steven R. Capps of the United States Geological Survey visited the claims in 1917 he found many small cuts, one cut 120 feet long and 221 feet of underground workings. Capps noted:

"The fact that no producing mines have been developed in no way reflects upon the character of the ore or upon the industry and initiative of the prospectors, for the lack of anything more than the crudest and most expensive means of transportation would have prevented the mining of all but the richest bonanza deposits" (1919, p. 222).

The Alaska Railroad reached the region in about 1920, but the deposit was some 15 miles off the rail line and across one major river, so access was still a problem. When government geologist Clyde P. Ross visited the area in 1931, he reported that ". . . many of the claims have been abandoned, and the annual assessment work on the others has been carried out under such handicaps that little has been accomplished". (1933, p. 291). Even with these difficulties, a second tunnel was driven into deposit in 1931–32. The rock encountered in the tunnel was geologically interesting, but it was not rich enough to be ore. The property was then leased to an experienced Alaska mining man, W. E. Dunkle, who continued the tunnel into rich ore and started a drilling program. In a search for development capital the property was optioned to Anaconda Copper Co. in 1936. Anaconda continued drilling, but returned the property partly because of very poor drilling conditions in the deposit. The local principals, however, thought enough of the project that they formed an Alaskan corporation that raised money in Seattle and throughout the Alaska Railbelt region, from Seward to Fairbanks, and placed the mine in production. In the process, they constructed a low-head hydroelectric system, sawmill, processing plant, and essentially a small village for employees. Production did ensue, but timing was bad. The mine opened in late 1941 and it closed in 1942, because of World War II.

The owners maintained the claims after the war, but war time inflation and the fixed price of gold had a drastic effect on the potential profit of the mine. The property was maintained at a minimum legal level until, with increased gold prices, it again became of interest. Since 1971, it has been examined, drilled, and tested by four major mining companies and by its owners. The total annual labor expenditure from 1909 until 1990 is uncertain, but there are good records from about 1970 on. During this period more than $5,000,000 was spent on development of reserves.

No attempt to take the claims to patent has been made. There has been some duplication of work, but most of the labor has been legitimate and addressed to understanding a large and geologically complex property. If at some time, the claims—which consist of about 1000 acres—are patented will the purchase price be considered as $5000.00 or will it reflect the expenditures of more than $5,000,000 to validate discovery? Placer claims may be validated for less than for a geologically complex lode deposit, but validation of a large placer deposit can also be very expensive. The example below comes from a recent application for placer patent:

Statement of fees, costs, and charges for mineral patent application FF , M. S. , 10 mining claims:

1. Cost of survey	$10,650.00
2. BLM processing costs	525.15
3. Purchase price	1,035.00
4. BLM filing fees	25.00
5. Title abstract	1,165.70
6. BLM Geological report	3,476.70
7. Exploration drilling and engineering	1,081,666.00
Total	1,099,257.50

Cost per claim—$109,925.75.
Cost per acre—5,496.29.

The true benefits to the non-mining American from the mining system contained in the Mining Law are, the discovery of new wealth, the value added to the initial discovery by exploration and development, as well as benefits from production itself. The cost of exploration and development that must be done before production commences annually amounts to hundreds of millions of dollars.

It is a cost borne mainly by the private sector, from the prospector to the conglomerate.

PLACERS, LODES, AND COMMON ORES

It is an ". . . almost impossible accomplishment to make our national representatives from other states comprehend, in a rational manner, the true relation of business and facts, in connection with the mining industry". Sylvester Mowry, An Arizona miner, 1864

Some problems with the Mining Law of 1872 arose from the lack of definition of critical terms, others from changes in the mineral industry that could not be foreseen in 1872.

Although both placer and lode claims were recognized in the Mining Law of 1872, neither placer nor lodge was clearly defined. Gold mixed in the sands of a river bar or buried more deeply in stream gravel was clearly in a placer deposit and subject to the mining law, but what of the gravel itself? Or more indirectly, what about oil-bearing shale formed in ancient lakes in Colorado and Utah? Like the placer gold deposit, the oil shale had formed under water essentially at the earth's surface, but it had then been buried and hardened. If the oil shale deposit was not a placer, what was it? It certainly was not the same kind of lodge as a gold-bearing quartz vein if it was a lodge at all.

The first attempt at a solution of the placer vs. lode dilemma may have helped, but did not resolve the issue. Basically the courts held that anything that was not a lode was a placer deposit. This interpretation led to unusual categories of claims, including placer claims for oil or oil shale.

The rapid development of the west caused by the discovery of gold contributed to the placer and lode definition problem and essentially initiated the problem of common minerals under the Mining Law. In gold rush days, no problem existed with common minerals. Only the richest types of mineral deposit could possibly be economic and of interest to the miner. These deposits were and are, in terms of land area, extremely rare. The discovery and reward system was appropriate in their location.

But as development proceeded, more common types of deposits also became valuable. Stone deposits were valuable for local building and, with the coming of the railroad, hard coal deposits near the right-of-way had immediate value. Steaming coals were not exactly common, but they were not as difficult to find as a metal deposit underlying a few acres. In contrast to the metal deposits, the extent of coal fields was measured in square miles or townships.

In the Rocky Mountain states, the problem of coal deposits was addressed first in Railroad right-of-way laws. As an incentive to rail construction, mineral rights in alternate sections along the railroad rights of way were granted to railroad companies. These lands were not subject to the mining law. Rights to other coal deposits on western public lands were finally resolved in 1920 when coal, oil and gas, and most of the widely distributed "bedded" deposits were withdrawn from the Mining Law of 1872 and put under a leasing act.

The common variety problem was approached by the Congress in both 1947 and 1955. In the Materials Act of 1947 most building and construction stones and minerals which had been subject to location were placed under a competitive sale system. After passage of the Multiple Surface Use Act of 1955, only construction materials that had special properties could be located; common varieties of rocks for building and related purposes would be obtained under the Materials Act of 1947. A placer miner who has held mining claims staked before and maintained continuously since 1955 may be able to sell common sand and gravel from his claim. But sand and gravel cannot be sold from a claim staked after 1955.

The intent of both the 1947 and 1955 laws was to further limit the Mining Law to rare

substances. The intent has not yet been fully realized. Creative miners rarely but sometimes have attempted to locate "uncommon" varieties of sand and gravel. A current complex and controversial claim involves pumice in the Jemez region of New Mexico on lands administered by the United States Forest Service. The pumice at least in part meets the location test given in the 1947 Act, but it is abundant locally and occurs in a scenic region. Patent is being sought on the claims; the pumice will be used to "mill" blue jeans to give them that faded look. If patent is granted on these claims, the decision will almost certainly be cited as another reason for elimination of the Mining Law, even though the case is an isolated and unusual one. Although the pumice locators may not be happy, probably most other miners would advocate another amendment to, rather the replacement of, the law. The law can be amended so that it never applies to such rock materials, even if they are not common varieties.

In attacks on the mining law, egregious examples are routinely exploited where a developer has reaped a windfall from land acquired from the government supposedly for practically nothing. Most of these examples are exceptions that derive from some grandfather clause. Some, like the New Mexico case, may reflect need for further amendment of the law. But the cases cited are very unusual; they will become rarer as grandfather rights disappear or as corrective changes are made to regulations or law.

Some of the examples may also not be as flagrant as they appear to be. Oil shale has not been subject to location since 1920, but some claims have been held since the early 1900s on grandfather rights. Considering the time value of money, and the dollars spent on generations of exploration as well as litigation and lobbying, is it wrong to issue an Oil Shale patent in 1987 for $2.50/acre on an oil shale placer staked in 1915? Some of the examples also need consideration in the context of other land dispositions of the same time. Sales of sand and gravel from a few grandfathered claims near Las Vegas after often cited as an undeserved windfall, but they date from the same era when the U.S. Government sold Howard Hughes some 30,000 acres of Las Vegas area lands at $5.00 per acre to build an aircraft factory. No plant was ever built, and the land is now the base for the massive Summerlin land development. Only hindsight views such happenings perfectly.

In a case cited in a report issued recently by the General Accounting Office, a miner reaped an apparent sizable profit by selling his patented claims to a ski resort. But the miner wished to mine his claims and only sold after local zoning regulations made the mine impossible; this mitigating circumstance is not usually pointed out by those who cite this case as an example of unwarranted profit, or incompatible use of mining land. Although it may be desirable to hold mining land for mining, just as a case may also be made for reservation of arable land for agriculture, it is difficult practically and in equity to tell an owner what to do with private land as economic conditions change.

Another aspect of the Mining Law that has attracted critical attention has been nonmining use or occupancy of unpatented federal mining claims. Although abuses continue, the problem has been addressed in law, and can be controlled by the Federal land managers. Before 1955, it was clear from case law that the only legitimate use of a federal mining claim was one that related to mining—prospecting, development, or extraction. The miner could occupy the claim, but his occupancy was related to mining. The Multiple Surface Use Act of 1955 put the case law interpretation into statute; claims located after the 1955 Act could be used only for ". . . prospecting, mining, or processing and uses reasonably incident thereto". Largely because of abuses on use of mining claims in the contiguous 48 states, the Bureau of Land Management is now considering revision of regulations on occupancy of mining claims. Probably some revision is warranted, but it should be with the view that a need for occupancy still exists. In Alaska and in sparsely populated parts of most of the western states, full or part time occupancy of remote mining claims is essential.

Two significant problems of the mining law were addressed in the Federal Land Policy and Management Act of 1976, the law that governs the United States Bureau of Land Management. Before that act, because mining claims were not registered with the BLM but only with County or District Recorder, federal land managers had no direct knowledge of who was on the Public Domain for mining. It was also uncertain how many claims were being actively pursued and how many were inactive or "stale". A specific date was set to register all federal claims and many locators chose not to register. Although any claims on open Forest Service or BLM land that were dropped could be relocated by others, claims on Park Service or other withdrawn lands could not be, eliminating many locators who did not intend to pursue development. Since the 1976 Act, all records of location and annual labor are filed by the miner both with the state recorder's office and with the BLM. These recorded documents, together with notices or plans of operations required before any significant land disturbance takes place, allow federal agencies to track activities on mining claims.

Most supporters of the Mining Law of 1872 believe some other changes are desirable if not absolutely necessary. Two possible amendments are the complete elimination of the difference between placer and lode claims and the elimination of extralateral rights. But both of these features of the mining law still have their advocates. In Alaska, particularly, the duel system of claims appears to have considerable merit. One example of the continued need for both placer and lode claims is in active placer mining regions of Alaska where the small placer miner works his mine next to mining companies exploring the adjacent land for lode deposits. A single system would not likely displace the small operator. Although the dual system has caused problems, some could be resolved by better definition of terms, and, as commentator George Reeves has recently pointed out, some of the supposed conflicts do not actually exist.

The case for retention of extralateral rights rests largely with the amount of surface land covered by mining claims. A narrow steeply dipping deposit claimed with extralateral rights has a much smaller footprint on the federal domain that would the same deposit claimed with vertical boundaries. Some 20 years ago, before gold mining had its rebirth, opinion, favoring elimination of extralateral rights was practically universal. With production starting again from older vein-type districts, some former staunch advocates of this change now favor application of extralateral rights where they are appropriate.

PLANNING, THE ENVIRONMENT, AND INDIVIDUAL INITIATIVE

". . . mineral exploration and development should have a preference over some or all other uses on much of our public lands." Public Land Law Review Commission, 1970

Self-initiation inherent in the Mining Law of 1872 and real or conceived environmental problems probably have been the two prime causes for attacks on the Mining Law, although the lack of a royalty would be a close third. Self-initiation is envisioned as negating proper planning or, in essence, as preplanning the land use of an area. And the mining law, in itself, does not contain much environmental protection. These problems have, however, been addressed extensively outside the mining law.

Self-initiation has been dealt with in a most Draconian fashion by withdrawing large areas of land from an application of the mining law, and generally even from inventory of the land's mineral wealth. Is this really good land planning and management? Further, on the land that remains open to location, both the United States Bureau of Land Management and the United States Forest Service now have complex planning processes which can be used effectively to limit development. The rights of self-initiation still exist in the location and discovery process, but as far as development rights are concerned, they have been greatly proscribed by changes in other laws.

Not all planning and mining issues have been resolved, but there are both process and framework in the planning mandated by the U.S. Forest Service and BLM. Valuable ore deposits are so rare that they represent exceptions to most land plans and obviously can only be discovered where they exist. Although the exact location of a deposit remains to be determined, it is possible to identify large areas that are more likely to contain a deposit of a certain type than would adjacent areas. These areas can be recognized in land plans in almost the same broad fashion as favorable habitat areas for salmon or moose. Planning, instead of being used as a zoning procedure to prevent uses, could work toward the resolution of problems between competing uses. Prospecting and discovery could still remain a competitive enterprise within a system of development guidelines.

Environmental protection related to mining has also been dealt with extensively in the last 25 years. The protection is partly within the law and its regulations, but is largely in collateral law. Miners are subject to the National Environmental Policy Act of 1969; no significant disturbance on federal claims is possible without at least an Environmental Assessment, and most large projects need a full Environmental Impact Statement. Work on wetlands involves permits from the Corps of Engineers. Each agency has laws and regulations which apply to mining.

The various states have also been active in environmental protection. In Alaska special permits are generally needed from the Departments of Environmental Conservation and Fish and Game as well as Natural Resources. The Coastal Zone Management Act affects many projects. Of the Mining Law states, only New Mexico does not have a statewide mining reclamation Act, and an act is now being drafted for their 1991 legislature to consider.

The changes made to date in the Environmental Laws and in land management, however, do not satisfy the preservationist. To a modern preservationist, the idea that a sin-

gle prospector could go into the wilderness and make a discovery so significant that a new town could form and perhaps roads or railroads be built and agriculture and secondary industry developed is anathema. After all, they argue, these lands are the property of all the citizens, and should not be accessible to such a catalyst. On the other hand, is not that where changes in a free country generally have, and should, begin—with the individual?

Preservation of some lands is in the national interest, but many would also believe that it is also valuable to preserve the ability of free citizens, singly or in small groups, to initiate changes which improve their lives and the economy of the country on much of the rest of the Public Domain. Alaskans fought the preservation battle once in the 1970s when, in Alaska National Interest Conservation Act (ANILCA), Congress preserved more land in Alaska than the area of the third largest state: California. In its wisdom, Congress decided that these lands were more important for preservation than development. And even though there was lip service in Title XV to carry out a mineral inventory of the land, this part of ANILCA has been, in effect, scuttled. Furthermore, by carefully drawing boundaries to interdict possible transportation routes, other Federal, State, and Native Lands were also affected so they could not be developed. In this Congress, some of the same groups will ask not only to withdraw more Public Lands but to change the Mining Law so that the entrepreneurial abilities of individuals and small groups can not be used in the appraisal of the public lands for minerals.

It is true that other mineral appraisal systems work, and some might be able to produce royalties for the federal treasury. It is likely, but not certain, that if sufficiently large land concessions were offered on the Public Domain, a multinational company would place a bonus bid up front and also guarantee a royalty on production from any workable mineral deposit discovered. But because of the scarcity of such deposits, very large acreages would be required, and only those that were large enough and rich enough to fit the guarantees could be placed in production. Small and medium sized prospects or large low-grade type deposits could not be mined and because they could not be mined would not even be sought.

Several years ago, some of the larger mining companies decided that they would not seriously consider a gold deposit that had a potential reserve of less than 1 million ounces. Now some will not consider a deposit with less than 5 million ounces. But there are small companies that could put 50 people to work with a deposit of only 200,000 ounces. There are long time Alaska mining families that could survive for years on a few thousand ounces, and the recreational miner who would be thrilled to find one-half an ounce of gold. These small miner options are lost if the Mining Law is replaced by a structure that satisfies the preservation interests.

Another option exists—ownership and development by the state. Our relatively close province of Magadan in the USSR is similar in some respects to Alaska. It is very large and has a similar population, about 500,000 persons. More than 100,000 of these people work in mines and there are many more mines. But many of these mines are not profitable. Thousands of people are used for prospecting where a few hundred could do the same job better. The mines tend to furnish full employment and foreign exchange. The Soviets are much more self-sufficient in minerals than we are, but at a significant cost to all Soviet citizens and to the environment.

The capitalistic system does not do everything well but one of its basic principles rests on the economically efficient use of capital resources. If an ore cannot be produced in the United States by a mine that meets the law and produces some profit, the mine's existence is short lived. Some Soviets are well aware of this. In January of 1991 a delegation of Soviet officials came to the United States to visit the United States Bureau of Mines in Washington, D.C. They were interested in technology, but they primarily wanted to find out more about a very inexpensive system of prospecting and mine development that they could take back to the Soviet Union—The Mining Law of 1872.

The mining law has acted, and can continue to act, as an incentive for many Americans to enter the Public Lands and help appraise the mineral wealth of the United States. And the appraisal process is never over. In 1963, mining historian Rodman Wilson Paul wrote:

"Ultimately Colorado, Idaho, and Montana were carried into a new prosperity by a wholly new kind of mining that brought its own problems along with its own rewards. No comparable mercy blessed Nevada; once gutted it remained depressed for twenty years, and has never found a real substitute for the silver of its vanished greatness." (p. 195)

But even as he wrote those words scientists of the United States Geological Survey were making basic scientific finds that would enable a new gold rush. The research results were in two areas, the structural geology of Nevada, and the applied science of geochemistry. The scientific results were observed closely by a few astute miners, and were rapidly translated rapidly into the first discoveries in the rich Carlin district.

But geology alone cannot determine mining. Carlin could proceed to development in the 1960s, at a gold price of $35.00/ounce, because of its richness. But the rest of the new western gold rush happened because the gold price was freed from its artificial restraints—and prospectors from around the world returned to the west—and because new technology was developed for processing very low-grade gold and silver ore. Because of the Mining Law, prospectors did not have to wait for a bureaucracy to advise that gold mining would again be profitable.

The historical examination of two gold rushes that preceded the California rush of 1849 is relevant to the mining law problem. A gold rush to the Portugese Colony of Brazil lasted more than 100 years, starting about 1700. A rush in Russia started near the Ural Mountains in about 1800 and overlapped the California rush in time. In both these stampedes, rigid government controls were sought, if not always maintained. Taxes were high, and both governments sought to control all aspects of distribution of metal. The consequences were that only the richest ores could be mined, no technology was developed, and no strong derivative cultures emerged. As the richer ores were depleted, workers conditions worsened.

A mine, like a farm, should be conserved, and if the driving force of mining is income to the state, conservation of the resource can only be a secondary aim and may not occur. In any mining operation in a free society, most of the dollars produced as revenue flow to labor and suppliers, with lesser amounts for profit, taxes, and royalties. Mining technology continually developed on the American Frontier and lower grade ores could be mined as high grade ores were depleted. An American industry in the early 1850s that had to depend on Cornish miners for mining technology led the world into modern practices by the early 1900s. In this respect it paralleled the entire American experience with the industrial revolution.

The bottom line in a mining operation in a capitalist society is the cut-off grade of the deposit, the lowest grade of ore economically feasible to mine. This is the actual break even cost of mining and processing; it is the base against which the mine works after capital costs have been repaid. As costs rise, or metal prices decrease, the cut-off grade of the ore has to rise; reserves decrease as a consequence and the mine life is shortened. If costs decrease or metal prices increase, the cut-off grade falls, reserves increase because lower grade ores can be mined and the mine life is extended. Partly because of a lack of federal royalty, United States mines have been able to sustain production in competition with much richer foreign mines that have much fewer environmental restraints than in the U.S. And they have been able to produce low-grade ores profitably.

If exploration and development costs of mining are fully considered, there is little doubt that mining has more than paid its way. The gold and silver produced from the West in the last century alone multiplied the capital available to the world by several times. Although the metals did not pay for federally subsidized stage coach, pony express, telegraph and rail lines, gold and silver were the catalysts that allowed the capital of the United States to be extended in order to develop the West. The copper mined at Butte, Bingham, Jerome and Kennecott allowed the United States to give all its citizens the benefits of abundant energy. Metals with no known uses in 1872 have since been discovered and produced because the act faithfully follows the market system. Of the 35 metals used in a modern television set, some had not even been chemically isolated in 1872. If a market is found for germanium, europium or gallium, a prospector will look for an ore that contains it.

The Mining Law has evolved almost continuously since 1866 and it is capable of further change. It has been amended more than fifty times, including four amendments in ANILCA. It would be very difficult to develop a new law that could produce mineral wealth from the public lands as well. Of alternatives proposed thus far, only the Mining Law allows individuals, small companies and multinational giants to work on deposits of appropriate size and grade. And although most of the metals are produced by the giants, family mines still operate throughout the West. The giant corporations sometimes acknowledge their debt to the individuals and small mining companies that lead in discovery.

The Mining Law of 1872 has grown with the times; it is good law and it's retension should be considered fairly. If the law is replaced, the crafting of its replacement should have its foundations in an examination of the benefits and profitability of the mining industry as well as its costs. A restructuring of the Mining Law for the country warrants a review similar to that given to all the uses of the public lands by the Public Land Law Review Commission in the 1960s. Establishment of a Mining Law Review Commission should be the foundation of new legislation.

ACKNOWLEDGMENTS AND COMMENTS

The point of view in the article is of a geologist who, as a government employee, first

observed the Mining Law in action, then as an explorer and developer and promoter of mining ventures, used it over a span of 40 years. It attempts to examine the law in some aspects of its history and how it works in a relatively free society.

The mining law has been examined by attorneys who have read and litigated the mining law. George E. Reeves, a long time mining attorney, has recently examined, in detail, specific problems related to overlapping placer and lode claims and on work done, both on and off the claims, as part of annual claim maintenance. In a much more general approach, John Leshy has described and critically analyzed almost every aspect of the Mining Law: I have borrowed part of Leshy's approach, but reached a different conclusion as to what the future of the law should be. Davis and Leshy both examine the intricate maneuverings that attended the passage of the Mining Law of 1866, but Davis's examination perhaps benefits because it was written only 35 years, rather than more than a century, after the passage of the law.

George Schmidt, a mining engineer with long experience in administration of the mining law with the United States Bureau of Land Management, James S. Burling, Esquire, with the Pacific Legal Foundation, and Fred Eastaugh, Esquire, from Juneau, Alaska who has had long experience with the mining law, each read several early versions and made valuable suggestions. Burling examined both law and health of the mineral industry and proposed specific steps that the United States should undertake to revitalize the mineral industry—he assumed the base of the Mining Law of 1872. My wife, Jenny, has worked on every draft. If there are errors that relate to the mining law—or anything else—it is not the fault of these reviewers.

In addition to Leshy, Davis and Reeves as sources, The American Law of Mining, 2nd edition and original statutes have been consulted. Richard and Morrell both have very useful information about mining and mining law before 1872. The beginnings of mining law in societies that evolved towards capitalism are discussed in footnotes to De Re Metallica by Herbert and Lou Henry Hoover; some early laws are given verbatim by Pettus.

Works by Billington and Ridge, Bishop, Holbrook, King, and Paul discuss the mining west—or personages involved with the decisions that shaped the west. The books by Holbrook and King are especially interesting because they chronicle some of the very strong and occasionally dishonest or greedy persons that were involved with mining in the 19th and early 20th centuries.

The contrasts in civilization that have grown out of free vs. state mining emerge in several references, but are thoroughly explored, with insight, by Morrell. Although the gold mining industry in the west began the development of modern mining technology, the copper mining industry documented by Navin continued it and prospered as a result.

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Mr. BYRD addressed Chair.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, let me appeal to Senators to move forward with some acceleration in the pace. The Senate went on this bill 8 hours and 10 minutes ago. There have been some interruptions with actions on other bills.

We have some very strongly held views here. The amendments do not particularly affect my State. I recognize that Senators are within their rights to offer amendments to appropriations bills, amendments that deal with legislative issues, controversial issues, but we do have a responsibility to try to move this bill.

Today is Wednesday, and the Senate will go out at the close of business next Wednesday. That means we have Thursday and Friday and Saturday, Monday and Tuesday and Wednesday. We have back behind this bill a Treasury-Post Office bill. We have the VA-HUD appropriation bill. Our Appropriations Committee has reported 9 appropriations bills within the last 2 weeks.

And this, I believe, is the seventh appropriations bill on the floor, with two more waiting in the wings. And the leader, I believe, is committed—I do not want to presume to speak for him—but I believe I understand that he is committed to bringing up the Department of Defense authorization bill before we go out. And so that means we do have to move on.

We have been on the bill now at least 5 of those 8 hours, and probably more. And we have not resolved by vote one single amendment on this bill.

I understand there are some other controversial amendments.

Now, I love every Member on both sides of the aisle—I would not say every Member on both sides of the aisle. I love every Member on both sides of the aisle on this question that I have heard, and I love every Member on both sides of all the amendments that I have listened to.

Now, I am not going to move to table. I have the floor right now, but I see my good friend from Montana, Senator BURNS, and my good friend from Idaho, Senator CRAIG—and I understand Senator MURKOWSKI from Alaska is coming to the floor. I certainly do not want to shut them off.

But I do want to serve notice, and I hope I will not have to proceed to move to table. At some point, if I get the floor, I will feel that I have to move to table, and I will just start down the line. If I move to table the first amendment that is pending, if it is tabled I will go to the next one. If it is not tabled, at least I will not be any worse off than I am right now. The amendment will still be pending, and Senators will at least know what the votes might be. That somehow might help to expedite action.

So I want to plead with Senators to try to keep their remarks confined within more narrow limits than has been the case in the main thus far.

Now, four—let us see. We have had one Senator speak in support of the Bumpers amendment. We have had three Senators on this side to speak in opposition to it. We have had two on that side to speak in opposition. There are two more standing and sitting, and waiting. That will be four on that side—four on the Republican side, four on this side, with one of the four in support of the amendment.

That is a pretty equal balance, considering the fact that the oratorical powers and the oratorical athleticity of the Senator from Arkansas is pretty much equal to that of any other Senator. At least, I do not think I can complain about Senators speaking at length; I speak quite at length sometimes—on some matters. But this is the appropriations bill. We are talking about amendments that involve controversial legislative issues.

I would hope that those legislative issues would be resolved in committees that have jurisdiction over such legislation, and brought out—saying that I recognize the right of Senators to offer such amendments.

But there is a time to speak and a time to sit down. So I am going to sit down, but I hope Senators will try to

emulate me in sitting down. And I am going to start moving to table, unless someone else does, pretty soon. We just cannot keep on like this and expect to get this bill done—tomorrow even.

I thank all Senators for listening.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, one, I wish to join my friend and colleague, the chairman of the Appropriations Committee. He has shown great patience, far more than really I would like to. I want to see this vote tonight.

I would tell my colleagues that I happen to support the amendment of the Senator from Nevada. But as this debate continues, I may be more persuaded to go along with my friend from Arkansas.

I think it is time that we vote. I know the Senator from Montana has been waiting for 5 hours, and he is entitled to debate. I know that Senator MURKOWSKI from Alaska has been sending me notes. He is ready to come over, and I would encourage him to come over.

And I would certainly encourage our colleagues to follow the guidance and wisdom of the chairman of the Appropriations Committee, and let us wrap this debate up and have a vote on a motion—maybe a motion to table one of the amendments, the underlying amendment or the Bumpers amendment—and move forward.

We have several other amendments to take up, and I would like to see us pass this bill, if possible, today; or, if not, certainly by tomorrow.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BURNS. Mr. President, thank you very much. It will not take me very long. I just want to support what has been done by the Reid-DeConcini forces in trying to forge some kind of a consensus or compromise on this mining legislation, the National Mining Act.

We have heard of a covenant made between the Government and the American people lately, something new injected into the political arena. And this mining law has served us very well. Now, we want to do away with that covenant. Go out and do the work, but when you get ready to go to the bank, you will not be able to.

I want to tell a little story. I come from a farm family in the State of Missouri. That is where I was raised. My dad bought our farm at the courthouse steps for taxes in 1913. There are probably some folks around that can remember those days. But when he got the abstract of that old farm, he told my mother, he said: You notice, since the day this farm was granted from the Government, it has never been paid for—never. And he said: We are going to pay for this thing. And they did.

The point I am making, if we change the rules now, let us go back and change all the land that has been granted by this Government and put into private hands. And let us say: OK; now we want to start charging a royalty on what you produce on your farm.

Is that fair? That is kind of changing the rules, is it not, here in the middle of the game? Is that not a violation of private property rights?

There is a difference between hardrock mining and gas and oil. We pretty much know when we start putting down a hole in the Earth to look for gas or oil. We have had seismographs; we have studied the geology. We think it is there, and the possibility is of making a well that will be profitable, that will serve the needs of America; at least, we have a chance.

But, you know, whenever we turn over a little old rock up there in the mountains, it may have gold in it, or platinum. May I remind my colleagues the only platinum mine in this country is located in my State. And if you did not have platinum and palladium, you would not have catalytic converters on your car. So let us talk about air quality.

You do not know where that vein is going. You do not know where it started, and you do not know where it is going to end up. And you do not know if it is just a little trace here and a little trace there.

A lot of people say: Why do you mine there? It is because it is there, where it is.

Who was it? I think there was a bank robber one time. They asked him why he robbed banks. He said: Because that is where the money is.

But in gas and oil, and any other thing, it is different than hard-rock mining and the investment. Now, we want to take away that element. That says you cannot own it once you have done the work on it.

I just want to remind my colleagues of one other thing. Yes, it is important to Montana. And how many speeches have we heard on this floor, saying the economy has gone to pot; we cannot get anything going. And yet, we put on rules and regulations in this body that will not let this economy recover.

Because, let me tell you, the only true wealth that a nation produces comes from Mother Earth. There is no place else from where it could come. It is our natural resources that produce that wealth.

And if you think it comes from somewhere else, you shut off everything that grows from Mother Earth, and I will tell you what: We are poor—poor. That is just plain economics. That is very simple, and it is a very simple topic.

Tell me one other situation or civilization or society that has survived in this world when they quit developing their natural resources? They disappeared from the face of the Earth. If you think this country is exempt from that, my friend, you have not read any history books. And that is what we are talking about here.

I am going to close this today because it is important to the State of Montana, but it is also important to the security of this Nation. All of these new, great inventions that are coming up have trace minerals, and the mining industry is very important to them. So we can quit producing those things. We can move it offshore. We can send everything offshore. We can send our workers offshore. But the true wealth of a society will come from Mother Earth. We can have laws as to the way we develop it. We can have laws on how we reclaim it. But if we have laws that tell us we cannot develop it, then we will surely disappear from the face of the Earth.

Basically, that is what I am thinking about. So if my colleagues want to talk about covenants, I will talk about covenants. We are putting covenants on the mining industry just like with our people in agriculture and, yes, some people who live in town probably do not realize that there is something more to producing food, fiber, and the security of this Nation than what we find on Main Street America.

So we support what the mining industry has done, with Senator REID, Senator DOMENICI and Senator STEVENS, realizing that last year we told this body that we would try to find some kind of a compromise. And we have reached that, we have fulfilled that. Yet, that did not call off the people.

I notice on this big letter all these people who are concerned about you in America would shut down your way of producing wealth and your standard of living and your security. Just read the top of that letter right there. If you think these folks are concerned about you security and your standard of living and your quality of life, you have got another think coming. It is very important. Very important.

But I want this Nation to realize where its wealth and strength comes from. It comes from security. It comes with a convenant that we made with these people that we will protect those property rights.

I just ask the support of the Reid-Domenici-Stevens approach and to table the amendment of the good Senator from Arkansas. There is no doubt about it, he is dedicated in what he does, and he thinks what he is doing is right. He, in his own mind, thinks he is right, and I respect him for that.

I thank the Chair, and I yield the floor.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, I know the distinguished chairman of the committee is anxious to get on

with this, so I am going to make my closing comments. I understand there is one additional speaker, and perhaps we can get a vote immediately after that.

Mr. President, I took 1 hour this morning, and the opponents of my amendment and the proponents of the Reid amendment have taken over 7 hours. I am not complaining that other Senators are not here speaking in behalf of my amendment. I simply point out that when we look at where the opposition to the patent moratorium is coming from, it is powerfully clear what the issue is. I have never read one editorial or heard one television or radio commentator that discussed this issue, that did not do it with the utmost contempt of Congress because we have not dealt with it.

Mr. President, I do not mean to sound self-serving or the least bit arrogant, but the people of this country are angry, they say, because their voice is not being heard. If we debated this issue on all three networks on prime time television, I promise the American people overwhelmingly would be appalled that the U.S. Congress continues to allow this outrageous system to continue.

This is one of those issues where, if you accommodate a certain interest group, you are just fine because nobody else much really cares. But I listened to the Senator from Arizona this morning talk about the public opinion in his State. I recommend the Arizona Republic, which has editorialized on this, calling the mining law of 1872 "our great land rush," or the Arizona Daily Star: "Bad law. Congress must change the mining law of 1872."

The Santa Fe New Mexican: "Bury the 1872 Mining Law."

The Oregonian: "Mining Law Needs Reform."

The Denver Business Journal: "Mining Law Needs Upgrade."

The Los Angeles Times: "U.S. Treasure Hunt."

A poll by the Northern Plains Resources Council, one of the most respected groups in America, say that there is "strong support for mining law reform in Montana." Listen, 88 percent of the people in Montana support mining law reform and 60 percent believe there should be no royalty. We are not talking about royalty, although an awful lot of the debate from the other side of the aisle dealt with royalty. There is no royalty provision before this body.

According to a poll taken just 2 weeks ago in New Mexico by the New Mexico Environmental Law Center, 84 percent of the registered voters of New Mexico believe the 1872 mining law needs reform; 81 percent say the law is outdated.

In 1990, the American Mining Congress commissioned a national poll of registered voters and it found that—this is the American Mining Congress—82 percent of Americans believe the hard rock mining industry should be required to reclaim the land and pay a royalty for minerals. This led the polling firms to conclude: "The question provides the most concrete evidence that the industry should not conduct the mining law battle in public view." Think of that. A study by the American Mining Congress concluded that we are jeopardized if we debate this issue in public.

My objection, Mr. President, is not to the patenting process where you pay $2.50 an acre for the surface, or $5 for the surface. Not to disparage Western States, but all you have to do is drive over some of the desert lands out there and you know it is not worth $5 an acre.

What I have railed against here for 4 years is giving away billions and billions of dollars of minerals underneath that surface for $2.50 an acre. Mr. President, the surface value is irrelevant. Therefore, the Reid amendment is irrelevant to the problem. In some ways, the Reid amendment compounds and makes the situation worse. Take the Stillwater Mining Co. in Montana, about which much has been said today. They have applied for a patent on 2,000 acres and, just coincidentally, did it 4 days after I lost by two votes 2 years ago. Let us assume they are going to have to pay $5 an acre for that 2,000 acres. That means they are going to get 2,000 acres surface and minerals for $10,000. As has been said time and time again, underneath that 2,000 acres lies 32 billion dollars worth of hard rock minerals. Mr. President, that is not my figure, that is theirs. That is what they say is underneath that 2,000 acres.

So if the Reid amendment is adopted, poor old Stillwater will have to pay $200,000 for the surface.

The mining industry is paying three times that much every day just to kill this legislation. I sometimes think if we could get them to pay into the Treasury what they spend on lobbyists to defeat this legislation, we might balance the budget in this country.

The value of the surface is absolutely meaningless to Stillwater, just as it is meaningless to every one of the big mining companies of this country that defend this practice.

Not to disparage my good and respected friend, the senior Senator from Nevada, but it is so painfully apparent that his amendment is nothing but a canard. I would just as soon him say you can have the surface, not at fair market value, give it to them for $5. I am not going to object to that, Mr. President.

You want them to pay fair market value, and the Bureau of Land Management says that the average value, fair market value of this land is $100 an acre. If you add California, it goes up to a little more than $300 an acre.

Mr. President, I do not care what the fair market value is of the surface. That has nothing to do with the debate.

My colleagues, if you vote for the Reid amendment, you are saying I think what is going on in this country is just hunky-dory, just fine.

I had been wandering around the floor today, and I found letters on Senators' desks.

Here is one to the Senator at this desk that says the mining companies, just 30 mining companies in the last 3 years have spent $10,771,000 in New Mexico. The Senator from Nebraska has one on his desk showing what they spent in Nebraska last year.

I invite all Senators who favor the Reid amendment to tell me why that is relevant. I will tell my colleagues what I am thinking about doing. We have a tax bill coming up on the floor as soon as we finish this. I am thinking seriously about putting an amendment on that bill on behalf of a very big company in my State called Wal-Mart. I think I will put an amendment on it saying Wal-Mart will be exempt from paying all Federal taxes. They can pay State taxes, county taxes, city taxes, but I think Wal-Mart should be exempt from paying income tax. And I am going to put a note on my colleagues' desks about how many jobs Wal-Mart has in their States; I am going to put a note on their desks talking about how many goods Wal-Mart buys from the factories in their States and dare them to vote against my amendment to exempt Wal-Mart from income tax.

That makes just as much sense as this letter does.

I promise, as I did this morning, not one job will be lost, not one mine will be closed if the Bumpers amendment is adopted.

The Senator from Alaska talked about the judicial review provision in my amendment. Well, it is copied from the ANWR bill. It is copied from the bill that he knows more about than anybody in the Senate, the ANWR bill. It is common boilerplate language.

Mr. President, we have a $400 billion deficit this year—a $4 trillion national debt. The mining companies take somewhere between 1.2 and 4 billion dollars' worth of minerals off Federal lands every year and do not pay a nickel for it. And old Joe Lunchbucket, who works on the assembly line all day and just keeps getting further and further behind, would probably like to know why that is the case. Nobody is giving him that kind of largesse.

Mr. President, you always get a diversion about how many jobs are going to be lost. You get a diversion about all these strategic minerals that are being mined in the West. But when you ask this very simple question which is central to the debate today: Why is it that the mining companies, the biggest mining companies in America are

happy to pay private landowners up to 18-percent royalties for gold, it is because they have to. I am not going to let them mine my farm without paying me a royalty. And I am not going to let them mine my farm without putting up a bond to reclaim it when they finish, and my colleagues are not either.

They happily pay royalties when they mine on State lands—Montana, New Mexico, Wyoming, Utah, Idaho, Arizona. Every one of those States, if you want to mine on their land, by George, you are going to pay a royalty.

This debate is not about royalty. I am just throwing that in. It does not cost an extra penny.

Listen to this. They say that without a patent, that is, a deed to this Federal land, they cannot borrow money. Well, now, I ask this simple question. Eighty percent of the mining on Federal lands is on unpatented land. Where do they get the money to mine on unpatented lands? They do not have a deed to that. They obviously have no difficulty borrowing money to mine on unpatented lands. When they mine on private lands, they can get a lease and take it to the bank and borrow on it, and they do it. And when they mine on State lands, they do not get a deed to the land, and they mine it.

Why is it that they can borrow money, all they want, without a deed on private land, on State land, on other Federal lands, but if you suggest that we put a 1-year moratorium on giving them a deed to it, you get the impression that the world is just about to come to a close?

If we defeat the Reid amendment—and I divinely hope we will—and pass the Bumpers amendment, there will be 1 year for the House and the Senate and the American Mining Congress and all those who want to resolve this in a sensible way to sit down and do it.

The House already has a patent moratorium in their bill. They have exactly in their bill what I am asking for in mine. They do not have a royalty, and I am not asking for a royalty. Again, the debate has been diverted to that, but that is not an issue.

Why would we not do that to address a really critical problem in this country? If you vote for the Reid amendment, you are voting for more scandals. You are voting for more documentaries and talk shows and more anger by the American people about those people up there who do not hear our voices, about who is taking care of the special interests.

You are going to hear about more sales of Federal lands that are worth billions for $2.50 an acre or even $100 an acre.

Mr. President, I want to say to my colleagues that I believe they understand this issue. I believe when they come in here and hang their hat on something called face or fair market value, they are saying: I do not want to face up to this because I have some mining companies in my State. They may be contributors, they may not be. But everybody who walks in here after this debate, which has gone on all day, will know exactly what they are voting on, and at some point their constituents are going to know what they are voting on.

Mr. President, this is a time when the people of this country say: They cannot do anything right. They do not care what I think. They consistently spend more than they take in. They let people rob them blind, as they do on that mining bill. The place is in gridlock. And they are taking care of the big boys. They do not care about the rest of us.

That is a big issue in this country. That is a big issue on this bill.

I plead with my colleagues to defeat the Reid amendment and vote for the Bumpers amendment, and say to the people of this country that we are going to work something out that is sensible and that you will know we are trying.

Mr. President, I yield the floor.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER (Mr. BINGAMAN). The Senator from Montana is recognized.

Mr. BYRD. Will the Senator yield, Mr. President?

Mr. BAUCUS. I am glad to yield to the chairman.

Mr. BYRD. Mr. President, I do not know how much longer this is going to go on.

The Senator from Montana wishes to speak for 5 minutes?

How long does the Senator from Alaska [Mr. MURKOWSKI] wish, 5 minutes?

Mr. REID. I would like 12 minutes to answer my friend from Arkansas.

Mr. BYRD. The Senator from Nevada wishes 12 minutes.

Does any other Senator wish time on the amendment?

Mr. STEVENS. Mr. President, may I inquire? I just was off on the telephone. I did not hear the Senator's request.

Mr. BYRD. I was attempting to find out how many Senators wish to speak, and how much time each Senator would like to have. Up to this point, three Senators indicated they wished to speak for a total of 22 minutes.

Mr. STEVENS. This Senator has no intention to speak unless the Bumpers amendment is not tabled.

Mr. REID. I am sorry. I could not hear the chairman.

Mr. BYRD. I ask unanimous consent, Mr. President, that the Senator from Montana have 5 minutes, that the Senator from Alaska [Mr. MURKOWSKI] have 5 minutes, the Senator from Nevada [Mr. REID] have 12 minutes, and that that close the debate on the pending amendment.

I would like to see an up-or-down vote on it, or if Senators wish a tabling vote, that is all right. I simply want to move on with the amendment and the bill.

Mr. REID. The Senator from Nevada will agree to that.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? Without objection, it is so ordered.

Mr. BYRD. So at the end of the 22 minutes there will be a vote. A motion to table has not been ruled out by the unanimous-consent request.

I thank all Senators.

The PRESIDING OFFICER. The Senator from Montana is recognized for 5 minutes.

Mr. BAUCUS. Mr. President, a little less than a year ago I expressed my intention to vote for the Bumpers moratorium unless there is substantial change in the 1872 law. It is clear. I think anyone who has thought about this issue knows that the 1872 act needs reform. There are abuses, there are a good number of abuses, and we have to address them.

I voted against the Bumpers moratorium a year ago. I said I would vote for the Bumpers moratorium if there were not substantial changes to the act.

Senator REID has a proposal which begins to address some necessary reform. Essentially, it is requiring fair market value on the patents. There is another provision in his amendment that says if the patent is not used for intended purposes it reverts back to Uncle Sam.

Those are good changes. We can work with what the fair market value actually is. If the valuation is incorrect, I think that is something we can address. I think most reasonably minded people would think that the fair market value is the value that the patent should cost; that is, the value of the land.

There are other areas that I think we have to address as well. I do not know how far we should go to address that. They include bonding requirements for reclamation, for example. I see the Senator from Nevada nodding his head affirmatively. That is an area that must be addressed.

There are other areas too. But those are not before us now. The only issue before us essentially is the alternative, the Bumpers moratorium on the one hand or the Reid amendment which addresses a major problem, on the other.

I guess we have a third choice, which is the status quo.

I am going to support the Reid amendment. I support the Reid amendment because it is fundamental reform and change for the better. It is a moderate position at this point.

Let us not forget we are now legislating on an appropriations bill, something we do with some frequency, but something we should not do nearly as frequently as we unfortunately do.

I think the wiser choice here is to support the Reid amendment, to not

support the Bumpers 1-year moratorium which will mean that we will begin to go down the road of meaningful reform to the 1872 statute, which then gives us a chance in a later forum, probably the Energy Committee, to deal with these issues, namely bonding requirements for reclamation, or in other forms that will probably be necessary, but in the ordinary legislative process where we begin to work away at the continued reform.

I just think that the Bumpers moratorium is too much. It is a 1-year flat moratorium. I tend to think that that is not necessary now. The Reid amendment is a better alternative.

We are beginning to make progress. I therefore urge us to accordingly support the Reid amendment, and not support the Bumpers 1-year moratorium.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MURKOWSKI. Mr. President, I thank the Chair.

I would like to address the Bumpers moratorium that is pending before this body and the Reid proposal which the junior Senator from Alaska feels is a conscientious effort to address some of the necessary corrections that are needed under the current mining law prevailing in this country at this time, known as the mining law of 1872.

I think it is noteworthy to reflect for a moment however on the predictions made by the Senator from Arkansas relative to the economy of this Nation: The $4 trillion deficit, the issue of jobs, the issue of balanced payments, and reflect on the drift of the mining industry in America today.

The mining industry in America today is getting worse as each passing moment goes by simply because there are more attractive areas to initiate exploration, particularly Russia which welcomes mineral exploration and development—more attractive than in the United States which because of numerous regulatory requirements puts conditions and commitments that do not make it attractive for the industry to invest in this area.

As a consequence, as we look at the economy in this country, we are seeing the mining industry posture very much like the energy industry.

It is simply abandoning U.S. exploration efforts and going overseas. As a consequence of that, it is taking those jobs overseas and is contributing to the deficit balance of payments. And it is the contention of the junior Senator from Alaska that if the extreme position is proposed by my friend from Arkansas, if it is passed by this body, you will see the mineral industry move outside of the United States, and we will become more and more dependent on imported minerals. We are already importing a significant amount from Africa, South Africa particularly, and the former Soviet Union, now the Russian Republic.

As a consequence of the matter before this body, I think it is appropriate that we address the Reid amendment as a serious and viable alternative.

I have served with the Senator from Arkansas for some time on the Energy Committee. I know of his commitment to this issue. He has brought it up numerous times within the committee structure, and his commitment is genuine to bring about a reform that is not in the sense of structurally addressing the prerequisites within the act, but to simply throw out the act and put the whole process up to a public bidding posture.

The consequences of that, Mr. President, would simply provide for interest only by major multinational corporations. They are the only ones that could basically afford to bid into the structure suggested by the Senator from Arkansas.

That kind of a proposal, I think, is so contrary to the public land use concept, where the basic prospector has the opportunity to go out and look for discoveries, initiate the necessary prove up, and the philosophy of a generation of an economic expansion is associated with the jobs, the community, the tax base, not necessarily what goes into the coffers of the Federal Government and is available from the highest bidder.

This is where, I think, we have a significant departing of values.

Let us face it, Mr. President, establishing a new bureaucracy necessary to implement the suggestions in the revision proposed by the Senator from Arkansas would cost the Federal Government an extraordinary amount of money. I would hate to see a pencil taken to the process, but clearly, it would establish a whole new bureaucracy.

How could the Government basically establish a value?

Well, we would suggest that the value has to be initiated by some type of expiration—core drilling, examination of the cores, and somehow set some parameters to establish value. The idea of letting the prospector, the individual, do this and initiate the basis to the job, I think, is much more feasible and in the interest of the traditions of the West.

Mr. MURKOWSKI. Mr. President, the national climate for development of our mineral resources is worse today than ever before in the history of our Nation and is getting worse every day.

We are fighting a battle that affects the very fabric of our country's economy. The charge is led by a very vocal, very powerful, very well organized, and very well funded, elite minority who oppose any consumptive or renewable use of the public lands. They are opposed to the very foundation of our economy—the development of our abundant natural resources.

Approximately one-third of the total land in our Nation is owned by the Federal Government, the vast majority of which lies in the Western States and Alaska. It is in these same States where the largest part of our mineral resources are concentrated.

Over two-thirds of these public lands have been withdrawn or restricted from mineral development. This shocking withdrawal has occurred largely as a result of failure to consider the cumulative impact of multiple public land withdrawals when acting on individual withdrawal proposals.

Consistently, proponents of each withdrawal tout the merits of each proposal and characterize an area as only a small part of the United States, or of the public land system, or of the public lands within a particular State. But these individual withdrawals which our Government has allowed to accumulate make up two-thirds of the public lands now withdrawn from mining.

Too many wilderness areas have been established without adequate regard for access to the area's minerals or access through the wilderness area to the minerals of an adjacent area. In fact, some wilderness areas have even been established specifically to prevent known mineral potential from being developed.

Mineral development in this country has suffered from the deliberate shift in public land policy from multiple use to no use. This no use land policy, implemented on an incremental basis and ostensibly in the public interest, has hampered our ability to compete abroad, contributed to our trade deficit, and caused our Nation to become dangerously dependent on foreign sources for our minerals needs.

Despite this serious situation, the national environmental groups and some of my friends in Congress have launched a full-scale attack on the spirit of individual initiative in the mining law of 1872. Their goal? Openly, sweeping reform to a law that has worked well for 100 years. Their unstated goal? To further tighten public lands policies by making it more and more difficult for both small and large miners to do business.

This assault on the mining industry comes at a time when mining—particularly hard-rock mining—is experiencing a strong comeback in Alaska. The Red Dog Mine near Kotzebue and the Greens Creek Mine in Juneau are just two examples of this striking comeback. They are solid proof of the mining industry's potential to provide more near-term expansion in jobs and investment than any other Alaska resource industry as oil revenues to our State dwindle.

For well over a century, the Federal mining law of 1872 has performed admirably in pursuit of its stated objective—to develop minerals on certain Federal lands. Under the law, the public takes it upon itself to explore Federal lands for mineral deposits. In re-

turn, prospectors are given the right to obtain and develop these deposits in the absence of any fees or unnecessary bureaucratic hassles from the Federal Government. Thanks to this system, the mining industry has played a major role in the economic and infrastructural development of Alaska and the Western United States.

But for some, this 100-year-plus track record of proven performance is not enough. Despite an unsuccessful attempt to impose a moratorium on the patenting of mining claims, antimining forces have again turned their attention to a major revision of the 1872 mining law. Bills have been introduced which would tear apart existing Federal mining law and replace it with an expansive and intrusive Federal bureaucracy.

While varying in their individual approaches, each of these bills would effectively take the job of prospecting Federal lands out of the hands of individual risktakers and leave it to the Federal Government to decide where and when mining can take place. The immediate effect of such a change would be that many people, especially small private miners and prospectors, will simply stop looking for minerals on Federal lands.

The proposed changes also include a proposal to require miners to pay royalty on their gross revenues and the initiation of a system of fees to be paid by individuals or companies mining or prospecting on Federal land. Here, again, it will be the small operation that suffers the most. Because so many of the expenses in mining are incurred up front, before revenues from production begin to flow, these changes will represent a powerful disincentive to small-scale mining operations.

There is room for reasonable improvement in this law. For example, no one intended that this law would provide a jobs program for real estate brokers. And I do not think anyone disagrees that reclaiming old mine sites is a necessary and important part of utilizing any natural resource. But before we heed the calls of the antimining crowd and undo a system that has formed the basis for the investments of hundreds of private individuals, a case for legislative reform must be made. Above all, the overall impact of any reform proposal on our domestic mining industry and our Nation's security must be carefully considered. Any consideration of revising the 1872 mining law should cause us to take a second look at the mineral potential lost due to the over 88 million acres of wilderness that have been closed to mining.

The country has changed a lot since 1872, but not quite as much as the antimining forces would have us believe. Alaska is now the last frontier. For our State to realize its potential, we can't afford to lose the spirit of initiative and enterprise which is at the heart of the mining law of 1872.

In Alaska, we are working hard to diversify our economy and plan for the future, we are forced to confront the competing goals and overreaching influence of outside interests. We face expanding Federal powers at the expense of State self-determination. This is a problem compounded in Alaska by the fact that nearly all Americans claim some degree of ownership of Alaska. This is a battle for my State's survival.

Alaska offers tremendous opportunity to improve our Nation's economy based on the wise use of our natural resources. This can be done and still retain the character of Alaska, with its wildness and its beauty.

Mr. REID. Mr. President, the Senator from Arkansas, among other things, denigrated the fact that there are foreign corporations who are involved in mining throughout the United States. As we know, foreign companies have investors in all kinds of businesses throughout the country. In Nevada, Arizona, Wyoming, New Mexico, those foreign companies that do have interests in mining ventures in the United States pay American dollars to the workers, American dollars to the suppliers, American dollars to the merchants.

The Senator from Arkansas asked why is there information on the desks as to how mining affects your State? And he gives some absurd thing about lobbyists. The point of the matter is that mining not only affects directly those workers who work in the mines in the States affected, but it also has impact, like the two Senators from Illinois. Hundreds of millions of dollars of equipment are manufactured in those States every year that are used in mines in Nevada and other places. That is the point.

The Senator knows that is the point. He is only trying to divert the facts, as he has through this entire argument. He said, well, only 75 to 80 percent of the gold is used in space, defense, and industry. Well, the fact of the matter is, it is about 60 percent which is used in the manufacture of jewelry.

But the point of the matter is, Mr. President, that those are real jobs, also; 154,000 people are employed in the United States in the retail jewelry industry, and that is not small peanuts; 65,000 in manufacturing jewelry; 48,000 in wholesale business; 37,000 people are employed in the manufacture of precious jewelry in the country; 11,000 in New York State alone, and 4,500 in Rhode Island.

Stable prices in the 1980's have rejuvenated the American gold jewelry manufacturing business and helped to create new demand for gold jewelry overseas. That is important.

We export gold, because they make jewelry in places like Japan. That is one of the positive trade factors we have with Japan. Gold jewelry demand in Japan has increased from 1.9 million ounces in 1985 to 4 million ounces in 1991.

They do not have a crop of gold of their own. They have to import it. They are importing it from us. That is good. So we should not denigrate the fact that people are engaged in making jewelry. It is one of the rare things in this country where we export. It helps our balance of trade.

The Senator from Arkansas says that the reclamation provisions are meaningless. Let me tell you, those reclamation provisions are very harsh, very difficult for people. Every Federal reclamation standard in existence applies to mining operations on Federal land.

He is making up things. He says reclamation means nothing. It means everything. The reclamation standards that were suggested by Senator BUMPERS in his substitute to S. 433 in the Energy Committee are the current reclamation standards required on Federal lands, subject to mining penalties.

The point is, what Senator BUMPERS has laid down apparently is no longer good enough to meet his own test. We are doing what he suggested should be done. This man will not take yes for an answer. We have given him what he asked for last year: fair market value. We have given him reclamation.

The BLM reclamation standards are very strict: air quality, water quality, solid waste, fisheries, wildlife, plant habitat, cultural, and paleontological resources. These apply to this amendment. He has run down, denigrated, and demeaned reclamation. There is significant reclamation in this amendment. It talks—I repeat—about reversion. If you do not mine on the land, it goes back to the Federal Government if you try to use it for some other source. That is what he talked about here for 4 years.

Now he says it is a diversionary issue, or means, or method. He will not take yes for an answer.

Mr. President, Nevada environmentalists favor this amendment. Why should they not?

Here is something that came across my desk. He talks about things coming across my desk.

"Please vote yes on Senator REID's amendment to the appropriations bill * * *" This comes from XL Mineral Co. They are in California: "Please vote yes on Senator REID's amendment to the appropriations bill on the floor today. While we are adamantly opposed to the imposition of holding fees and a patent moratorium, we believe Senator REID's proposal is the least offensive."

There is significant reform in my amendment. That is what the mining companies are saying. I hope that, after all is said and done, some sense of sanity will prevail and changes to the mining law will be given the attention and study they deserve. Not on the appropriations bill. It should be done in

the authorizing committees. It is time to dispense with propaganda and deal with the industry and the job it represents in a fair and honorable manner. We are disgusted by the propaganda being presented by Senator BUMPERS. There is no excuse for it. I do not know who the company is. But that is a fact.

The comment about news articles all being negative, people are angry, they certainly will be angry if they knew the false, fictitious statements made about an industry that employs 175,000 people in this country directly or indirectly.

Mining is important. The American public would be appalled—they would be appalled if they have the facts and they listen to the debate and there were tests given who was telling the truth.

The Arizona people, the Senator said, want the law changed. That is what we are trying to do. He read from the editorials. We want to change the law. That is what we are trying to do, as Senator BAUCUS said.

The fact of the matter is that the amendments that have been offered are substantive. If there were a test on the facts, my friend from Arkansas would fail that test.

Fair market value, reversionary interests, reclamation, that is what we are talking about, real substantive change. We are not trying to destroy an industry, an industry that some people do not understand and in fact they do not understand. They cite falsehood after falsehood even though there had been evidence presented to this body today time after time after time showing my friend from Arkansas does not present the facts as indicated.

How much time does the Senator from Nevada have remaining?

The PRESIDING OFFICER. The Senator from Nevada has 4 minutes and 20 seconds.

Mr. REID. Mr. President, the Senator from Arkansas has asked for me to give to him 30 seconds, and I would be happy to do that. I just do not want the time to run out, because I would like to at least have the last word on this issue. If the Senator from Arkansas is in hearing distance, I suggest he come forward if he wants the 30 seconds; otherwise, I will not have 30 seconds to give him.

Mr. President, the National Association of Counties supports it. The school boards supports it. And fair market value is not this fictitious $100 that my friend from Arkansas has come up with.

I have recited in California where the patents were issued, the thousands of dollars an acre that they stated there that they gave fair market value there: Arizona, $1,800 an acre. The fair market value is fair market value according to Federal standards. My friend from Arkansas keeps spewing out the $100. It does not mean anything.

That is not what he was saying last year on this floor on September 21. As a result of that, I agreed I would try to get substantive changes in the mining law. I came here this morning and presented these changes and suddenly we do not get it, and my friend will not take yes for an answer.

I do not know what it would take to satisfy my friend from Arkansas. Perhaps it would take closing up all mines. As the senior Senator from Alaska said, he believes that in fact is what the Senator from Arkansas wants, and it appears that is the case. He will not take yes for an answer. The fact of the matter is that reclamation, reversionary interest, and fair market value are substantive changes in the 1872 mining law and the Members of this Senate should support this amendment.

I yield 30 seconds to my friend from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 30 seconds.

Mr. BUMPERS. Mr. President, I want to make two points. If the Senator's amendment had been in place in 1991 it would have yielded a whopping $395,000 to the U.S. Treasury. You think about that. That is how powerful his amendment is. That is $395,000 to mine billions and billions of dollars worth of minerals free.

No. 2, there is a rumor going on that you can vote for Bumpers and Reid both. You can do that, but if you vote for the Reid amendment you torpedo the Bumpers amendment.

Mr. REID. Has all time expired, Mr. President?

The PRESIDING OFFICER. The Senator from Nevada has 1 minute and 24 seconds.

Mr. REID. Mr. President, the Senator from Arkansas has fortuitously answered one of his own questions. The fact of the matter is that I again do not know where he came up with the figure that, $395,000 would be obtained. That may be the case if he uses his $100. But the fact is there are so few patents issued anyway; as we talked about earlier today, about 20 last year in this country. That is all we are talking about.

Remember, though, Mr. President, that we are trying to respond to criticism of fair market value is not in the mix. This is fair market value. And it would help a situation regarding those 20 patented claims, new claims that come on board. Remember this royalty, this holding fee, these types of things are diversionary tactics by my friend from Arkansas. We have substantive changes. That is what we have addressed. Please focus on that. What I ask my friends to do is focus on the actual facts of this amendment, not some spurious argument that has nothing to do with the 1872 mining law.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. WIRTH. Mr. President, I am going to support Senator REID's amendment. Frankly, I would like to do more, and if the amendment tree were not already full, I would support amending his proposal to do more.

In particular, I think we should have a stronger reclamation standard. My State, Colorado, has a very detailed and progressive reclamation standard, and I think that it is both livable for the industry and a great help in ensuring that today's mines don't become environmental problems in the future.

I would also like to see some of the holding fee collected in this bill put to use reclaiming old, abandoned mines—not just to cap them to protect people from falling into them, but doing the work needed to stop acid mine drainage and other environmental problems caused by old, abandoned mines.

I would like to see us end the application of the mining law to so-called uncommon varieties of common materials—that is, sand, gravel, rock, and other non-ore materials. Under that provision, we sell rock for fair market value when it is not worth much—but if it's uncommon, we dispose of it under the mining law. That should end.

I could be persuaded to do even more on these and other issues, too—if we could engage in this debate.

But the alternative to the Reid amendment is Senator BUMPERS proposal to put a moratorium on further patenting of mining claims. Unfortunately, that does little to take us closer to a real solution to the real issues that need to be dealt with in updating the mining law.

I think Senator BUMPERS amendment is largely intended to be a referendum on whether change is needed. I agree that change is needed. But I far prefer to deal directly with what those changes should be, and whether the changes will be reasonable and practicable.

Senator BUMPERS said earlier this year that he would try to report legislation out of the Energy Committee, and he even offered a proposal that was not too different from Senator REID's. I encouraged that, and I was looking forward to our grappling with these issues in that legislative forum. Unfortunately, Senator BUMPERS decided not to pursue that. I think that is a shame, because I believe he could have put together a good package—not everything he would want, to be sure, but something that did address most of the major issues, and something that could actually pass and be enacted into law. And that is something we do need to do.

Mr. DASCHLE. Mr. President, I wish to make some comments about the amendments before the Chamber today on the Interior appropriations bill relating to hard rock mining. This is an important issue for my State of South Dakota, as well as the Nation.

In South Dakota, almost 3,000 people are employed by the mining industry. The great majority of this mining is for gold, and almost all of it occurs in the Black Hills. The mining occurs on both private and public lands. The public lands at issue are in the Black Hills National Forest. This is a very small national forest, and one of the most intensely used forests in the Nation. The uses range from a very viable timber industry, to mining, to recreational uses, and wilderness. Because of the size of the Black Hills and the intense local interest in its management, my perspective on the mining law is different from many of my colleagues from the West.

I support mining. I want a strong mining industry because of the jobs it provides and the revenues it generates. But the mining law of 1872 needs to be reformed. That is why I have supported the Senator from Arkansas [Mr. BUMPERS] in the past in his efforts to place a moratorium on the issuance of patents, and I still support his amendment. But I also support the efforts of Senator REID to address some of the real problems with the 1872 law.

The Senator from Arkansas deserves credit for pushing mining law reform all these years. He has taken a lot of shots on this issue, and, to be honest, he hasn't received much help. A 1-year moratorium is not the death knell of the mining industry, and those that describe it as such are guilty of hyperbole at its greatest. What it does, however, is signal that we need to come to grips with this law and bring it into the 20th century.

I believe that is what Senator REID is attempting to do. I would prefer that this were being done in the Energy Committee through the normal processes, but since we are debating the issue here, we need to look at it on its merits.

The most egregious abuses of the mining law, the ones that make "60 Minutes" and "Prime Time Live," have to do with the patenting system and especially the fees, $2.50 and $5 per acre, that were set in 1872 to reflect market prices. Clearly, these fees do not reflect market prices today. Moreover, under current law, there is no requirement to actually mine a patented claim. You can build a house, or, even better, sell it to developers at incredible profit. The taxpayers are the big losers in this scenario, especially those who used to enjoy this section of public land. To be honest, these types of abuses are fairly minor; still, there can be no argument that they need to be addressed.

As I understand it, the Reid amendment would change the $2.50 and $5 patent fees to fair market value, thereby eliminating the incentive to resell the land for other uses. Moreover, as a further safeguard, the Reid amendment would make a claim revert to Federal ownership if mining ceases to occur. Another aspect of the Reid amendment would require reclamation on mining Federal lands, a requirement that most States have but that some do not. Unfortunately, there are other things that I had hoped would be in the Reid amendment, namely bonding, that do not appear. But based on Senator REID's assurances, this issue will be addressed.

Combined with the $100 holding fee that is already in the bill, the Reid amendment is a good start to reforming the mining law of 1872. Other issues, such as whether mining should have priority over all other uses under FLPMA, is a very legitimate issue for discussion, but I would hope that this could be done in the authorizing committees.

In closing, I just want something to be done on this issue. It has festered for too long, and until real changes are made, the image of the mining industry will continue to suffer, as will the taxpayers and the environment. If the Reid amendment passes, we will have made a step to improve the situation. If it fails and the Bumpers amendment passes, the pressure will stay on to make real reforms, and this, too, is positive.

Mr. BINGAMAN. Mr. President, I rise today to support the amendment offered by my colleague from Nevada, Mr. REID, that proposes changes to the 1872 mining law. This is a very contentious issue, and I support my colleague's effort to respond to the difficulty we have had in the Senate in addressing this issue through authorizing legislation. Although this amendment may not please all advocates of mining law reform, it is an important first step in addressing the most egregious abuses. If the Reid amendment becomes law, the Federal Government will receive an average of $325 for each patented acre—a big increase over the $2.50 and $5 per acre in the current regime. This amendment should also go a long way toward preventing abuses arising from patenting for nonmining, speculative purposes. This amendment will also, for the first time, codify reclamation in the 1872 mining law.

Mr. President, I believe it is important that we acknowledge the opportunity that this amendment offers, namely a chance to make some long-overdue changes to the 1872 mining law.

Mr. BUMPERS. Mr. President, I move to table the Reid amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Arkansas to lay on the table the amendment of the Senator from Nevada.

On this question the yeas and nays have been ordered and the clerk will call the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. BURDICK] and the Senator from Tennessee [Mr. GORE] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. HATCH] is necessarily absent.

I further announce that the Senator from North Carolina [Mr. HELMS] is absent due to illness.

I further announce that, if present and voting, the Senator from Utah [Mr. HATCH] would vote "nay."

The result was announced—yeas 44, nays 52, as follows:

[Rollcall Vote No. 172 Leg.]

YEAS—44

Adams	Harkin	Nunn
Akaka	Jeffords	Pell
Bentsen	Johnston	Pryor
Biden	Kennedy	Riegle
Bradley	Kerrey	Robb
Bumpers	Kerry	Rockefeller
Byrd	Kohl	Roth
Chafee	Lautenberg	Sanford
Cohen	Leahy	Sarbanes
Cranston	Levin	Sasser
Dodd	Lieberman	Simon
Exon	Metzenbaum	Warner
Fowler	Mikulski	Wellstone
Glenn	Mitchell	Wofford
Graham	Moynihan	

NAYS—52

Baucus	Domenici	Murkowski
Bingaman	Durenberger	Nickles
Bond	Ford	Packwood
Boren	Garn	Pressler
Breaux	Gorton	Reid
Brown	Gramm	Rudman
Bryan	Grassley	Seymour
Burns	Hatfield	Shelby
Coats	Heflin	Simpson
Cochran	Hollings	Smith
Conrad	Inouye	Specter
Craig	Kassebaum	Stevens
D'Amato	Kasten	Symms
Danforth	Lott	Thurmond
Daschle	Lugar	Wallop
DeConcini	Mack	Wirth
Dixon	McCain	
Dole	McConnell	

NOT VOTING—4

Burdick	Hatch
Gore	Helms

So the motion to lay on the table the amendment (No. 2882) was rejected.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now is on agreeing to the Reid amendment.

The amendment (No. 2882) was agreed to.

The PRESIDING OFFICER. The question now is on agreeing to the Bumpers amendment, as amended.

The amendment (No. 2881), as amended, was agreed to.

The PRESIDING OFFICER. The question now is on agreeing to the committee amendment on page 3 of bill.

Mr. STEVENS. Mr. President, did we move to reconsider that?

Mr. BYRD. Mr. President, I withdraw the committee amendment.

The PRESIDING OFFICER. The Senator has withdrawn the committee amendment.

The committee amendment on page 3 was withdrawn.

Mr. STEVENS. I move to reconsider the vote by which the Bumpers amendment was agreed to.

Mr. WALLOP. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. DASCHLE). The Senator from West Virginia is recognized.

Mr. BYRD. I assume Senator REID will withdraw his amendment——

Mr. REID. That is true.

Mr. BYRD. To the second committee amendment.

Mr. REID. As the chairman suggested last night.

Mr. BYRD. Mr. President, let us vote on the committee amendment.

The PRESIDING OFFICER. The question is on agreeing to the Reid amendment No. 2868. Does the Senator withdraw that amendment?

Mr. REID. Parliamentary inquiry.

Mr. BYRD. Does the Senator withdraw his amendment?

Mr. REID. I thought that had been done. Mr. President, the chairman of the Appropriations Committee directed a question to me which I thought was in the form of a unanimous-consent request that my amendment be withdrawn. I acknowledged that.

Mr. BYRD. Mr. President, I ask unanimous consent that the amendment offered by Mr. REID be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2868) was withdrawn.

The PRESIDING OFFICER. The question is now on agreeing to the committee amendment on page 101.

The committee amendment was agreed to.

BUDGET COMMITTEE STATEMENT ON THE INTERIOR APPROPRIATIONS BILL

Mr. SASSER. Mr. President, the Senate Budget Committee has examined H.R. 5503, the Interior appropriations bill and has found that the bill is under its 602(b) budget authority allocation by $185 million and under its 602(b) outlay allocation by $3 million.

I compliment the distinguished manager of the bill, Senator BYRD, and the distinguished ranking member of the Interior Subcommittee, Senator NICKLES on all their hard work.

Mr. President, I have a table prepared by the Budget Committee which shows the official scoring of the Interior appropriations bill and I ask unanimous consent that it be inserted in the RECORD at the appropriate point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

SENATE BUDGET COMMITTEE SCORING OF H.R. 5503

INTERIOR SUBCOMMITTEE SPENDING TOTALS—SENATE REPORTED

[In millions of dollars]

Bill summary	Budget authority	Outlays
Domestic discretionary	13,035	12,664
Senate 602(b) allocation	13,220	12,666
Difference	−185	−2
Defense discretionary	14	11
Senate 602(b) allocation	14	13
Difference	0	−2
Mandatory total	79	78
Senate 602(b) allocation	79	78
Difference	−0	0
Bill total	13,128	12,754
Senate 602(b) allocation	13,313	12,757
Difference	−185	−3
Domestic discretionary above (+) or below (−):		
President's request	478	168
House—passed bill	62	41
Senate—reported bill	.....	.....
Domestic discretionary above (+) or below (−):		
President's request	14	11
House—passed bill	14	11
Senate—reported bill	.....	.....

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I hope that Senator LIEBERMAN will call up his amendment dealing with Bosnia and we can get a time agreement on that amendment, say, 1 hour to be equally divided, during which time both sides could work to try to ascertain what the remaining amendments are so, hopefully, before the Senate goes out this evening we could limit any further amendments to those amendments that we are able to flush out of the woodwork.

Mr. WALLOP. Will the Senator yield?

Mr. BYRD. Yes; I will be glad to yield.

Mr. WALLOP. Mr. President, I am all in favor of trying to determine the number of outstanding amendments that are relevant to this bill. But I have to say that I will not be inclined to grant a time agreement to the Lieberman amendment, and especially I will have to inform the Senator that it is my intention to offer one and perhaps two amendments to it, for the lack of information that may be in the minds of other Senators about this on Bosnia-Hercegovina.

I think, as dreadful as the news from there is, and as poignant and as painful and as terrifying as it is, this Senate is moving too quickly without enough information. I say that with great respect for my friend, but there is to be a hearing in the Armed Services Committee on Friday on this issue and I will say that at the hearing that was held today, a member of the American Armed Forces told us that it would require two divisions just to secure the airport and the safe route. Italians cannot do it; Germans cannot do it; Brits will not do it, and I am desperately worried that we are moving to satisfy emotions that we all share with hardships that we may not be willing down the road to bear.

I hope that we will wait until we have the hearing. The Senator from Georgia [Mr. NUNN] has scheduled hearings on Friday. I have every sympathetic reaction in the world, I say to my friend from Connecticut, but I am desperately worried about the consequences of this amendment being acted upon before we really know.

Mr. WARNER. Will the Senator yield?

Mr. BYRD. Mr. President, I have the floor. I will be glad to yield.

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. WARNER. Mr. President, I join my colleague from Wyoming. I spent the last 2 hours studying this amendment, and indeed we all share with compassion this terrifying series of events that is taking place.

As the amendment is now drawn, in my judgment it could be construed as a blank check to the United Nations to at any time ask this Nation for Armed Forces of indeterminate amount. It does not set forth a specific set of objectives. It does not in any way have in there what we would achieve, how long we would have to stay. I remember so well this Chamber going through the series of carefully programmed debates, consultations with the President, before we acted on Iraq, and here in a matter of an hour someone suggested we are about to vote on a resolution which this Senator would require at least 1 hour of colloquy and questioning with those who are propounding the amendment, to get a basic understanding of the language itself and the parameters. And then in all likelihood, if it were to be voted as drawn now, this Senator would have to vote against it.

Several Senators addressed the Chair.

Mr. BYRD. Mr. President, I yield to the distinguished Senator from Georgia [Mr. NUNN].

Mr. NUNN. Mr. President, we do plan to have, as the Senator from Wyoming has indicated, an open hearing on Friday. We are lining up the witnesses. We hope to have witnesses who will speak to the policy. We hope to have witnesses who will speak as much as possible to what is actually occurring there now. All of us are very, very concerned about the situation there and about the reports we read of brutality and murder and inexcusable human conduct.

We will also have witnesses who will testify about the military implications and about the various military options. We will do as much as possible on Friday in open session. We cannot guaran-

tee that all of it will be open session, but I think what we have lacked as a body, as a legislative body and as a nation, is a discussion of the options.

It is not a simple matter. It is a complex matter and I think we would be well advised, whatever we do with this particular amendment, before we take any final action, to understand the implications of what we are doing and to choose carefully the options that we advocate.

Mr. PRESSLER. Will my friend yield? Mr. President, will there be the possibility of a compromise under which we have a 2- or 3-hour debate on this on Monday or Tuesday with assurances of a rollcall vote so it would not hold up this bill? I am very much for this resolution. I also want to move forward on the pending bill. If we can be assured of a 2- and 3-hour debate with a vote on this resolution, I think we can move forward. I am a cosponsor of this amendment. I think it is a defining issue in foreign policy at this moment for the President and for the Congress.

The PRESIDING OFFICER. The Senator from West Virginia controls the floor.

Mr. BYRD. Mr. President, I do not have any desire to interfere with this colloquy. I think it could be helpful in arriving at some kind of a decision either to go forward with the amendment or not go forward with it or if we want a free, separate, freestanding resolution.

I do wish the Chair to protect my right to the floor. I ask unanimous consent that I may yield for such colloquy without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I say to my friend that I would be prepared to go forward at some point in time, providing the Senate has had a full opportunity through the Armed Services Committee, and in all probability the Foreign Relations Committee, if they wish to have a hearing on it. The intelligence Committee had a hearing of some 2 hours today. It was very helpful. But until there is a complete record before this body, I would object to any specific time for a vote on this amendment, or one like it.

Mr. PRESSLER. I say to my good friend that we must try to get a vote on this important matter somehow. I cannot speak for anyone except myself. I speak only for this Senator. However, I feel strongly that we must get an agreement to have a debate and a vote on this issue. I think it is a defining moment in foreign policy—a defining moment for the Congress. This is a holocaust, a genocide, going on in today's world. Unless Congress speaks to it, this will be a very unfortunate moment in our history. I think it is a defining moment for all of us. And I plead with my colleagues, let us have a vote on it; let us not run away from this issue. It is going to be a tough vote because it involves the possible use of U.S. military force.

Mr. D'AMATO. Mr. President, I wonder if I might——

The PRESIDING OFFICER. The Senator from New York.

Mr. LIEBERMAN. Will the Senator yield?

Mr. D'AMATO. Certainly.

Mr. BYRD. I yield for purposes of a colloguy.

The PRESIDING OFFICER. Under the unanimous-consent agreement, the Chair will call upon Senators to be recognized with the understanding that the Senator from West Virginia can require to be recognized at any such time he may desire.

The Senator from New York.

Mr. D'AMATO. I want to just make a very brief statement.

This amendment does not call for the commitment of U.S. troops. We call upon the United Nations, or ask the President to call for an emergency meeting of the U.N. Security Council, and it says, yes, the Security Council should be authorized under article 42 of the United Nations Charter to use all necessary means to give effect to Security Council decisions in regard to Bosnia-Herzegovina, and it says "including"—it does not say you have to—"the use of multilateral military force under the Security Council's mandate to ensure the provision of humanitarian relief and to help protect the civilian population against the use of heavy weapons in conjunction with a United Nations supervised cease-fire."

We are not saying send in, land troops. We are saying let us get—we should be in the leadership of getting the United Nations to face up to its responsibility. Now, we have watched, and watched, and watched. We have negotiated, negotiated, negotiated through the aegis of the United Nations. We see little, if any, progress, but we see the slaughter of the innocent.

I am not suggesting we send a division, or two divisions, or three, or any for that matter, or any American troops as such. But if we do not get the United Nations to do more than just give lip service to what is taking place, to the tragedy, to the killing of the innocents where we now see vans that clearly were taking out children being shot upon—what does it take to get us to stand up?

We sat back, and I recall—and I will bring it up again; I do not care how many times—in May 1990, when I said, my gosh, why do we not send at least a clear signal to a guy who was certainly, as I will continue to call him, the Butcher of Baghdad, everybody got upset.

This Milosevic is a killer of Hitler-like proportions in what he is doing. He is demented. And we cannot say we do not know what is happening. We said it during the Holocaust. We know what is happening.

Will it take some risk? Maybe. But that is our position as being special. The United States is special.

Am I my brother's keeper? You better believe it. Because this Nation has been for us, for our families, for those who came here, it has been the haven. We are the haven that should be for freedom. If we take great credit when they say, oh, look, the walls came down, and people are free, well, then we have a responsibility to act at least to bring this before the United Nations in a forceful manner and to say we are not just going to use lipservice, and if necessary we will use force.

Is it difficult to distinguish all the parties? Sure, it is. But if we want to hide behind some report that says we cannot clearly delineate where all the orders are coming from the surrounding area, from the bombardment, for the killing of the people, then shame on us.

We have to know with clear definition whether or not there are killer death camps, how many, how many people have been killed, 50,000 people at least, most of them civilians, ethnic purification, purges, separation of people, Muslims being led away because they are Muslims, Croats because they are Croats. What will we say when we see the same kind of condition and it is too late and it takes place in Kosova? Will we then step in and do something?

I am not suggesting to you that we do anything other than what this amendment calls for, and that is to urge the United Nations really to be more forceful and, yes, for us to make whatever commitment necessary to secure some kind of semblance of aid to the most beleaguered. They are wondering how is it that the world community is allowing it to take place. We should not add our name to those who are afraid to go forward in the cause of peace and the cause of justice.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I thank the Chair, and understand the Senator from West Virginia retains the right to the floor.

Let me say to my colleagues that this resolution is the result of several days of effort by a number of Members of the Senate, all concerned about the outrageous events in Bosnia, concerned that we have gone now more than a year and watched Serbian aggression since the dissolution of Yugoslavia, first into Croatia, now into Bosnia, next into Kosova, perhaps Macedonia, the implication being that in the new world order there is no order, and now

these increasingly devastating stories of atrocities within Bosnia crying out for some kind of action.

We are dealing here with a Serbian leader, Milosevic, who has not responded to any of our entreaties that have been peaceful, no economic sanctions. Lord Carrington, Secretary Vance, they have all been over there trying to work this out and nothing has happened.

This Senator is fearful that in some ways like our experience with Saddam Hussein, it will take a moment when Milosevic is looking down the barrel of a gun for him to realize that it is time to stop the aggression.

We are not in this resolution aiming to get America into a war, to win a war. This is an attempt to work with the international community, led in effect by our allies in Europe, in whose neighborhood this is occurring, to use force in a limited way to bring the parties there to the peace table.

The aim of the resolution, when it started out, I would say to my colleagues, was simply to urge the President to go to the Security Council to seek authorization for the Security Council to take whatever action is necessary to enforce its own decisions.

Along the way, the resolution picked up some other parts suggested by other Members of the Senate, for instance that the United Nations and International Red Cross should be granted access to the alleged concentration or death camps to inspect what is happening there, that the Security Council should review the embargo and arms sales to Yugoslavia; that we may review with an eye to whether it makes sense for some nations to have the liberty to supply arms to the relatively defenseless Bosnians. And finally another suggestion by another Member that the U.N. Security Council should convene a tribunal to investigate allegations of war crimes.

So this is an expression of outrage, impatience.

Obviously, in a resolution of this kind, it is not up to us no more than it was when we debated so fatefully the question of Operation Desert Storm to determine what kind of military action we are talking about. That is up to the generals. The question here is whether the Senate wants to encourage the U.N. Security Council to be willing to form a multilateral force that can attempt in a limited way to apply force to bring about the resolution we seek.

Mr. WARNER. Will the Senator yield for a question?

Obviously the Senator respects his colleagues on the Senate Armed Services Committee. I would prefer, of course, that this resolution occur unanimously, if possible, because I am sure all of us in this Chamber are outraged by the stories we are hearing.

If you are going to understand my impatience, we have done a lot of work here the last week trying to bring the various parties together, of both parties, Senators of both parties, to have this be a truly powerful bipartisan expression of the willingness to lead.

Mr. WARNER. Mr. President, will the Senator yield for a question?

Mr. LIEBERMAN. Yes.

Mr. WARNER. Let me give the Senator an example of where I have some concerns. I fully appreciate the hard work that has been done, negotiations that have been done, and the importance of this body making a statement. But when you call on the President to immediately call for an emergency meeting of the U.N. Security Council in order to authorize under article 42 the U.N. Charter, here are the magic words, "all necessary means," that was the same language that this Chamber used in the Iraq resolution, which implies military force. Am I not correct?

Mr. LIEBERMAN. The Senator is correct.

Mr. WARNER. Then let us go on, to give effect to Security Council decisions in regard to Bosnia-Herzegovina, including the use of multilateral military force—now the specifics—under the Security Council mandate to ensure that provisions of humanitarian relief and help to protect the civilian populations against the use of heavy weapons.

I say to my friend, that in the mind of military experts, that means land forces. Am I not correct?

Mr. LIEBERMAN. That certainly is not the intention of the sponsor.

Mr. WARNER. Does the Senator think we could do this with just air and naval to ensure the provision of humanitarian relief to protect the civilian population when we have agreed today their fighting is not just in the Sarajevo area? It is all over in many cities. And the alleged atrocities are taking place in many areas.

I cannot find a military person who can tell me that we can achieve that result with simply the use of air and sea.

I follow up with this comment. To date—I just checked it a few minutes ago with the Secretary of Defense—the President of the United States has gone only so far as saying that sea and U.S. air would be made available to some type of U.N. operation; again, a reservation, indeed perhaps an absolute denial of the use of U.S. land forces.

If I am correct that land forces would be required, then whose land forces are we talking about when you ask the President to go to ask for this authority? Which country is to put in the land forces? Our President says somebody else will do it. Is that the purport of this resolution?

Mr. LIEBERMAN. I appreciate the Senators question. That is not the purport of the resolution. In fact, it is quite consistent with what we gather is the intention of the administration now in its efforts at the United Nations which is to convince the Security Council to vote to use all necessary means to enforce their own decisions.

But I think there is no sponsor, if I may say to the Senator from Virginia, no Member of the Senate who at this point sponsored this resolution who desires to see the introduction of ground forces in Bosnia.

May I say finally, I have great respect, of course, for the Senator from Virginia. While I have a sense of impatience because of the outrages that are occurring, I do not want this Senate to act on this matter in a spirit of division. We may have policy differences but I certainly think there should not be division over differences of words.

It would not be my intention and reaction to what the Senator and others have said to force this on the floor. But echoing the words of the Senator from South Dakota, I think if we lay it aside at this point, we all ought to work together and set a time certain to come back to this before we depart the middle of next week because every day that passes, as we all know, people are starving and dying.

Mr. WARNER. I hope we can do just that, and I hope we reach a resolution onto which this Senator can add his name in support. At the present time, I feel that I would have to object to the draftsmanship, no matter how earnest and sincere it has been.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, I am a cosponsor of this resolution. I cosponsored a number of resolutions in the past year to try to figure out some way to send a message to the hard-line Communist dictator in Belgrade, Milosevic. He has a hearing problem. It is like Saddam Hussein. He does not hear anything.

There are a lot of people to blame. I know it is very complicated. There was very interesting briefing today that alerted a lot of people to the problems that some of us are have not been aware of. I talked to the Secretary of State earlier today. They do not have any problem with the U.N. resolution. They do not have a problem with using force in certain cases where humanitarian aid is needed. I do not think there is any real problem.

I do believe there will not be any time agreement tonight. Perhaps it is better to wait and have the hearing in the Senate Armed Services Committee, and take this up freestanding maybe Friday or at the latest Monday.

I would certainly be prepared to work with the Senator from Connecticut and the Senator from New York and others, the Senator from South Dakota, the Senator from Arizona, to see if we cannot get it. I understand the majority leader would not object to bringing it up on a freestanding basis on its own.

If we can facilitate that without spending 2 hours debating whether or not we are going to do that Friday of this week, I assume the distinguished chairman of the appropriations committee would like to move on with the Interior bill.

Mr. DECONCINI. Mr. President, I appreciate the position of the Senator from Kansas on this. I realize the administration has a lot at stake. We all feel pretty strong about it. The Senator from Kansas has spoken on the issue.

I just want to say I am not going to insist we do it tonight. I cannot wait. Maybe because you get too close to the forest to see the trees. But I have been at Sarajevo. I talked to the President of Bosnia-Herzegovina in Helsinki just 2 weeks ago. I talked to the Foreign Minister. I paid attention to the issue as many others have here.

I respect the Armed Services Committee's right to hearings and to object to this. But I cannot wait until Monday or Wednesday of next week.

The Senator from Connecticut is trying to find an accommodation here. Certainly the Senator from West Virginia deserves accommodation after the day he has been through with the Western Senators taking up his whole bill. But I have to give some notice. I am not going to wait until next week because I feel very strongly about this. If we get defeated, so be it. But somebody has to speak out as to what is happening there. We cannot put it off. We have put it off now for weeks and weeks and weeks.

We have to act and the people have to make a judgment. Do we want to encourage the United States to use all its efforts in the United Nations to get a resolution from the Security Council that would authorize the use of force to get humanitarian aid into Sarajevo and reopen that airport? That is what we are talking about. I do not think we ought to put if off.

I am going to be quiet now and let it go tonight if that is the will of my friend from Connecticut. But I am not going to put if off until next week.

Mr. DOLE. Will the Senator yield? I have another suggestion. There is one thing we might do. I hope that we might take it up as early as Friday of this week. One thing we might do—a lot of people are in agreement—we might send a letter to the head of the United Nations saying the same thing, and get it up to there tomorrow. But that is another way to approach it.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. PRESSLER. Mr. President, earlier this week, I had a meeting concering the situation in Yugoslavia with some members of the editorial board of the Washington Post, an American citizen of Albanian descent, and a doctor from Kosova. I also raised this issue with the President of the United States in another meeting this week. I say this to demonstrate how serious I believe this issue to be. It is my hope this body will take up and vote on the matter within the next few days.

Mr. BIDEN. I thank the distinguished chairman.

Mr. President, I say, for the edification of my colleagues, that in the Foreign Relations Committee, we held the only hearing—a closed hearing—where representatives of the Joint Chiefs of Staff and other agencies came before us and talked extensively about the various options to use military force. I invite my colleagues who have an interest in that to take a look at that record. I will not speak to that, because it was a closed hearing.

Let me point out two things about the resolution of my friends from Connecticut and Arizona. What is called for here essentially allows the United States a veto power over whatever use of force occurs anywhere. All they are calling for is that the United Nations should authorize the use of force to accomplish two things. They are not calling for an end to the war. They are not calling to end what is essentially an invasion. They are not calling to end all of the slaughter. They are saying: A, facilitate the delivery of humanitarian aid; B, what the United Nations has approved, get that heavy equipment, which is the thing that is killing all those poor Bosnians; get that under the control and supervision of the United Nations, whether it is in the hands of Bosnian Serbs or Bosnian Muslims or Bosnian Croats; get that under control.

In other words, to implement the U.N. sponsored plan to place this heavy equipment under the control of the United Nations.

So it is not an expansive grant of authority to use force. It is not requesting the United Nations for an expansive grant of authority to do what probably would require 100,000 150,000, 200,000, or 500,000 forces, which is to bring peace and tranquility to Yugoslavia.

But we can help stop the mayhem now, the wanton killing, the indefensible killing of innocent civilians as a consequence of the firepower in the hands of the Bosnian Serbs, who are exercising and purging ethnically the area that they wish to be greater Serbia.

So it is limited in what we are asking the President to ask the United Nations. It is manageable and does not deal with or speak to whether land forces are used or air forces or any other particular force.

I compliment my friends on their initiative. I thank the distinguished Senator from West Virginia for granting me the time.

Mr. LEVIN. Will the Senator from West Virginia yield 2 minutes?

Mr. BYRD. I yield for 2 minutes to the distinguished Senator from Michigan.

Mr. LEVIN. I thank my very patient and good friend from West Virginia. It has been suggested here that this resolution provides a blank check—I think those words were used—to the United Nations. It does not. We have a veto at the United Nations. We have to sign any check which is written by the United Nations. The Security Council would have to act, and we are a permanent member with a veto. There is no blank check in this resolution.

Second, the administration's own position at the United Nations is to support a resolution which provides for military force to support relief efforts. When I asked the Assistant Secretary of State this morning if that continues to be the administration's position, to support force, to support the relief efforts, his answer was that it continues to be the administration's position.

It happens to be that they would want to use air assets and naval assets. That is still force. I think it is a very sensible position. But that is still force at the United Nations.

Mr. President, there is credible evidence of a genocide taking place in this world before our eyes. We must act. And I agree with the Senator from Arizona very strongly that this cannot wait until next week. We have an obligation to act, and we must act promptly, because of what is occurring before the eyes of the world in Yugoslavia.

I thank my friend.

Mr. LIEBERMAN. Will the Senator from West Virginia yield 2 minutes?

Mr. BYRD. Mr. President, I yield 2 minutes to the distinguished Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, it is obvious to me in the Chamber that everybody who has spoken shares our outrage about what is happening in Bosnia, and I hope and believe wants the United States and United Nations to play a more active, aggressive role in bringing about a resolution to that problem.

In fact, in line and in support with what we gather, as the Senator from Michigan just indicated, is the intention of this administration at this point; but having heard from—appreciating the support given by the Senator from Delaware and others to the resolution—and I think he accurately expressed our intention—but acknowledging the concerns expressed by the Senator from Virginia and the Senator from Georgia, I would intend not to introduce the amendment at this point, and to urge my colleagues to join in the quickest, broadest consideration of the amendment, and to express my intention on behalf of those who have worked most actively with me in preparing this resolution—the Senator from Arizona, the Senator from New York, and the Senator from Michigan—

to repropose the amendment, or one quite similar to it, before the end of the week.

I hope that, in that time, the Senator from Virginia and others who have concerns about the wording of the resolution would work with us so we might, in fact, give unanimous expression to our moral outrage, our strategic interests, and our need for action quickly, because people are starving and dying with each day that passes.

Mr. WARNER. Will the Senator yield me 2 minutes to make a reply?

Mr. BYRD. I yield 2 minutes to the distinguished Senator from Virginia.

Mr. WARNER. Mr. President, I will work as hard as I can to accomplish that result, and I pledge to you that I want to join in an amendment. But I say to my friend from Delaware and my friend from Michigan, just take a look at this one word in here. You ask the President to get a resolution, and I quote it: "to ensure"—that is an operative word—"to ensure that provision of humanitarian relief and to protect the civilian population against the use of heavy weapons."

It is not written to say: to facilitate or to attempt. This is a positive word—to "ensure" that this is done. In the minds of a military planner, when you tell him to do it in such a way as to "ensure" that it is done now, and for what foreseeable period of time, that can be extrapolated into very significant military forces that could remain there for a prolonged period. I want to make certain that not only I understand this, but that the American public understands it, if this institution is to go on record.

I can go through and select other words in here which, to me, have very definite meanings when extrapolated into the use of military force. It is for that reason that I thank the Senator for not pushing this tonight. I thank the Senator for the opportunity to work with him, in the hopes that we can have a meeting of the minds on a resolution to meet the timeframe established by the Senator from Arizona.

I thank the Chair.

Mr. BYRD. Mr. President, does the distinguished Senator from Kentucky [Mr. MCCONNELL], wish me to yield him some time?

Mr. MCCONNELL. I would like to have 2 minutes.

Mr. BYRD. I yield the floor for 2 minutes, and I retain my rights to the floor.

Mr. MCCONNELL. The distinguished Senator from Connecticut and I have had a chance to discuss this issue in some detail over the last few days, and I commend him for his interests in trying to solve this problem. Unfortunately, it seems to this Senator that no expression of moral outrage by this body is going to have any real impact over there in Bosnia. What we are groping for here—and why I think this delay is so appropriate—is the right thing to do.

Hopefully, if we can conclude what the right thing to do is, we can move forward on a unanimous basis.

It seems to this Senator that to delay at the request of the distinguished Senator from Virginia is in the best interest of this body, and to give us an opportunity to bring ourselves together on a most complicated issue.

Obviously, those who were given an opportunity to have that classified briefing this morning, who have some concern about this proposal—and it seems to me it is a very complicated situation that has been going on for hundreds of years, and no damage will be done by further delay for a few days.

So I again thank my friend from Connecticut for his leadership on this issue, and I hope that we will be able to address it on a bipartisan basis some time before we depart next week.

Mr. President, I yield the floor.

BOSNIA

Mr. KOHL. Mr. President, I want to add my thoughts to the comments made by other Members of the Senate about the atrocities being committed by Serbian forces in the former Yugoslav Republics of Bosnia and Croatia.

Perhaps the most dramatic and moving illustration of the level to which the Serbian forces have sunk occurred when snipers attacked a bus carrying 50 orphans from Sarajevo to Germany. Two children were killed and nine others were refused permission to leave the area because they had Serb names. Not content with the destruction of young lives, Serbian forces actually launched an attack aimed at the funeral services being conducted for these victims. And in that attack, they wounded the grandmother of one of the children they had killed just a few days before.

While that is a dramatic and moving illustration, it is far from unique. The Serbians have adopted a policy of ethnic cleansing designed to remove all non-Serbians from the lands they hold. That policy has already resulted in the forced evacuation of 2.5 million people, often at gunpoint.

Given that policy we cannot be surprised—even though we should be shocked—by recent news accounts that indicate that international organizations like the Red Cross believe that non-Serbs "are being terrorized, minorities intimidated and harassed, civilians interned on a massive scale and hostages taken, while torture, deportations and summary executions are rife."

At what point, Mr. President, will the United States stand up and take action. The innocent victims of Serbian terrorism cannot afford to wait while our government waivers and decides if it really wants to take a leadership role in this conflict.

Look at what we have done on this most recent rash of reports about concentration camps. First, the State Department confirmed reports that Croats and Slavic Muslims were being tortured and killed, but did nothing about it. One day later, they reversed their position and expressed uncertainty about the accuracy of these reports, but didn't do anything to investigate them. According to administration officials, we now have very few options. We can only urge the Serbs to grant the Red Cross access to these camps.

This inaction on the part of our Government is, to put it plainly, unacceptable. If World War II taught us anything, it was that the international community must take decisive action against those who seek to commit genocide. Remaining silent is an open invitation to the Serbian forces to continue their ethnic cleansing. In fact, is all too possible that our silence at the early stages of this conflict encouraged the Serbs to entertain the notion that they could get away with this kind of concentration camp activity.

Let me make one final point, Mr. President. I realize that some people seek to justify our inaction on the grounds that this is a civil war, a conflict among various ethnic and nationality groups. They say that we do not know who the aggressor is, so we should not get involved.

This is not a civil war or an internal matter. Bosnia and Croatia are independent nations that have been recognized by the United States. Serbia has violated international law by invading these two nations. There is absolutely no question that Serbia is the aggressor in this conflict. Secretary Cheney stated that we got involved in the Middle East during the crisis with Iraq because there was "overt aggression of one country against another and because there's strategic interest in the Middle East." These same reasons now compel us to take action and put an end to Serbia's drive to create a Greater Serbia.

International law entitles the nations of the world to take appropriate action to deal with Serbian aggression. Human sensibility requires us to assert our leadership and join with the United Nations to resolve this situation at once. I urge the administration to recognize the mandates of morality and work with the United Nations to inspect the camps and take the steps necessary to prevent further aggression by Serbian forces and begin the process of resolving the disputes between Serbia and Croatia and Bosnia and the other States in the region.

AMENDMENT ON SERBIAN ATROCITIES

Mr. D'AMATO. Mr. President, I rise today in support of this amendment calling upon the President to urge the U.N. Security Council to hold an emergency meeting to do the following things: First, to authorize the use of all necessary means to ensure provi-

sion of humanitarian relief to the citizens of Bosnia, access by United Nations and International committee of the Red Cross personnel to refugee and prisoner of war camps, and to protect the civilian population from artillery and air attacks; second, to review whether the arms embargo imposed on the States of the former Socialist Federated Republic of Yugoslavia should be lifted for Bosnia; and third, to direct the establishment of an international tribunal to investigate allegations of war crimes and crimes against humanity committed within the territory of the former Socialist Federated Republic of Yugoslavia.

This amendment is the least we can do. As the world's only superpower, I believe we can and should do more. But I am pleased to join with my colleagues in offering and supporting this amendment as a first step in a direction we should be moving.

Yesterday, I announced that I would offer an amendment urging the creation of a war crimes tribunal to investigate and try the bloody handed murderers who have restored the term "death camp" to the world's vocabulary, a term we all hoped had been killed and buried with Hitler's Third Reich. My colleagues agreed with my initiative and included a clause in this amendment calling for establishment of such a tribunal.

Slobodan Milosevic and his henchmen must be brought to justice. They claim they don't control the genocide taking place in Bosnia, that it's the Bosnian Serbs who are doing the killing.

Milosevic must not be allowed to escape his personal responsibility for ethnic cleansing. It is his dream of a Greater Serbia that inspires and drives this new version of the final solution—only this time, the victims are Croats and Muslims, not Jews, Slavs, and Gypsies.

This time, the world can't say "we didn't know." We know, and we bear the moral responsibility to act. If we don't act, we are telling every aggressor and would-be mass murderer and ethnic purifier that he can get away with his crimes—if he just has somebody else do the killing.

If we don't act, we are telling the world that the principles we have declared and fought for since the end of the Second World War are just empty words. When these words get in the way of policy, we will disregard them.

Sometimes, you have to pay a price for having principles. Now is one of those times. For those who think the price is too high—recalling visions of Vietnam, Lebanon, or Northern Ireland—just think of the price we will pay in the future stopping other genocides whose seeds took root and flourished in the soil of our hypocrisy and neglect.

Let me be clear that I am not talking about starting a major land war in the Balkans. What I am talking about is using whatever force is needed to take out Serbian artillery, airfields, oil depots, supply lines, and the other elements upon which their war effort depends. We proved, in Operation Desert Storm, that we can do this when we decide to.

It is time and past time for the United States to press the United Nations to act. We, together with our allies, can do what needs to be done. After we stood aside to allow our European allies to deal with this European problem, and they dropped the ball, we must pick it up again and make certain that our principles—the world's principles—are not defied and defiled by Serbian aggressors who are engaged in mass murder.

After the allies destroyed the Third Reich in a storm of fire and steel, we found the horrors of the Nazi final solution in places like Auschwitz and Treblinka. After that, we said "never again." The time has come, Mr. President, for this body—and this country—to once again stand up for its principles and take action to give those words meaning.

I call upon my colleagues to join with me in support of this very important amendment.

The PRESIDING OFFICER. The Senator from West Virginia.

AMENDMENTS NOS. 2888 THROUGH 2894

Mr. BYRD. Mr. President, I send a series of amendments to the desk on behalf of Mr. NICKLES and myself. These amendments have been agreed to by both sides of the aisle. I will ask unanimous consent that they be considered and agreed to en bloc.

The PRESIDING OFFICER. The amendments will be stated.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], proposes amendments numbered 2888 through 2894.

Mr. BYRD. Mr. President, these amendments include:

An amendment (No. 2888) for an increase of $600,000 for Park Service operations, with $400,000 for Grand Teton National Park operations and $200,000 for cultural and historic resource evaluations at Weir Farm National Park, offered on behalf of Senators SIMPSON and LIEBERMAN;

An amendment (No. 2889) on behalf of Senator LIEBERMAN to increase Park Service construction by $115,000 for the general management plan at Weir Farm;

An amendment (No. 2890) on behalf of Senator INOUYE waiving public recreation uses imposed by a covenant associated with Aloha Stadium and surrounding property;

An amendment (No. 2891) by Senator RUDMAN relating to the White Mountains National Forest, Androscoggin Ranger District, offset by a reduction in land acquisition for the Pennsylvania Avenue Development Corporation;

An amendment (No. 2892) making a technical correction on page 73, line 22 on behalf of Senator NICKLES and myself;

An amendment (No. 2893) on behalf of Senator NICKLES which would allow the Bureau of Indian Affairs to utilize trust fund moneys jointly held for the Kiowa, Comanche, and Apache tribes to pay off their debt. The amendment will prevent the default on a 90-percent Federal loan guarantee and allow the tribes to move forward with their economic development plans; and

An amendment (No. 2894) making a reduction of $2,271,000 for the office of the Secretary at the Department of the Interior, to maintain the fiscal year 1992 level, offered on behalf of myself and Senator NICKLES.

Mr. BYRD. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with, and they be agreed to en bloc, and the motion to reconsider laid on the table en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (No. 2888 through No. 2894) were agreed to as follows:

AMENDMENT NO. 2888

On page 18, line 24, increase the amount by $600,000.

AMENDMENT NO. 2889

On page 20, line 21, increase the amount by $115,000.

AMENDMENT NO. 2890

Insert where appropriate:

SEC. . REMOVAL OF RESTRICTIONS.

(a) PURPOSE.—The United States hereby relinquishes any rights arising from restrictions described in subsection (c), subject to the condition that the real property be used for public purposes in perpetuity, as specified in subsection (b).

(b) IN GENERAL.—The Secretary of the Interior shall execute such instruments as are necessary to remove the restrictions described in subsection (c) that are applicable to the use of the real property consisting of approximately 55.31 acres located in Halawa, Ewa, Island of Oahu, State of Hawaii, being the major portion of the former Halawa-Aiea Veterans Housing Area, and currently known as Aloha Stadium. The removal of the restrictions shall be on condition that the real property be used for public purposes in perpetuity.

(c) RESTRICTIONS.—The restrictions referred to in subsection (b) are those reservations, exceptions, restrictions, conditions, and covenants requiring that the real property referred to in subsection (a) be used in perpetuity for a public park and public recreation area and for these purposes only, as set forth in the quitclaim deed from the United States of America dated June 30, 1967.

AMENDMENT NO. 2891

On page 95, line 16, decrease the number by $750,000.

On page 57, line 12, increase the number by $1,350,000 and on line 13, increase the number by $1,350,000.

AMENDMENT NO. 2892

On page 73, line 22, linetype "on" and insert "or".

AMENDMENT NO. 2893

(a) Notwithstanding the provisions of Section 101(c) of Public Law 98-473, Act of October 12, 1984, 98 Stat. 1849 [25 U.S.C. 123c], the Secretary of the Interior is authorized in his discretion, to pay lawful debts incurred on behalf of the Kiowa Comanche Apache Intertribal Land Use Committee in connection with the construction and operation of the Native Sun Water Park in Lawton, Oklahoma, from funds in the United States Treasury held jointly for the Kiowa, Comanche and Apache Tribes. Provided however that such payments may not exceed an aggregate of $1.3 million.

(b) Prior to exercising the discretion described in section (a), the Secretary or his designee shall provide written notice to the Kiowa Comanche Apache Intertribal Land Use Committee describing with specificity the nature and amount of the obligation(s) the Secretary intends to pay. In the event the Kiowa Comanche Apache Intertribal Land Use Committee does not provide documentation to the Secretary within 30 days justifying why the amount(s) should not be paid, the Secretary may exercise his discretion to pay the obligation(s).

AMENDMENT NO. 2894

On page 46, line 17, reduce the number by $2,271,000.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, will the Senator from West Virginia yield for purposes of offering an amendment?

Mr. BYRD. Yes; I am happy to yield for that purpose. I am glad somebody will offer an amendment.

Will the Senator yield 2 minutes? I promised Mr. PELL that I would yield the floor to him for 2 minutes, after which, if the Senator wishes to get recognition, he may do so.

Mr. PELL. Mr. President, I thank my colleague and friend for affording me this opportunity.

I would like to say on the record that we have had a Foreign Relations Committee hearing, ably chaired by Senator BIDEN on the military options in the former Yugoslavia. At that hearing, there was very good input as to the pros and cons of any action to be taken.

I think this debate just now is very helpful. We see the differing views. I am very glad the Senator from Virginia has discussed meeting with the Senator from Connecticut and working out a more satisfactory wording. I would add that tomorrow, the Foreign Relations Committee will hold a business meeting at which we will consider and hopefully report out a resolution on Bosnia so that the Senate can consider it in the very near future.

There is no question that we all have the same objectives and the same ideas and views. The question is how to word this resolution. None of us want to see our young men and women committed to war. But, by the same token, we cannot permit what is going on in Yugoslavia.

The question is to find the middle ground in there, and make use of the U.N. structure that we have.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

AMENDMENT NO. 2895

(Purpose: To reduce an appropriation)

Mr. GRAHAM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM] proposes an amendment numbered 2895. On page 46, line 17, strike out "$65,904,000" and insert in lieu thereof "$63,633,000".

Mr. GRAHAM. Mr. President, the amendment which I have sent to the desk is the first of five amendments to accomplish the policy objective that we have dealt with several times over the past 10 days, and that is to start the process of beginning to bring our budget into closer balance by freezing the overhead and general administrative budgets of the various agencies.

We have done this thus far by votes on the floor for the Departments of Commerce, Justice, State, and Transportation. Several other committees have, by their own action, held the general administration overhead to the current year's funding.

The amendment which I offer is the amendment that goes to the account of the office of the Secretary of the Department of the Interior, and it would purport to hold this to the current year's level of funding, which is $63,633,000, for a savings of $2,271,000.

Mr. BYRD. Will the Senator yield?

Mr. GRAHAM. I yield.

Mr. BYRD. That reduction has already been made, I wish to inform the distinguished Senator. That reduction has been made.

Mr. GRAHAM. That amendment has already been agreed to?

Mr. BYRD. Yes. The Secretary of the Department of the Interior will have the same level that he was operating under last year.

Mr. GRAHAM. I am very pleased with that statement.

Could the President pro tempore inform me as to whether that same policy has been adopted relative to the offices of the Solicitor, inspector general, et cetera, of the other Departments?

Mr. BYRD. It has not been.

Mr. GRAHAM. Mr. President, I withdraw the amendment which I have offered.

The PRESIDING OFFICER. The Senator has the right to withdraw the amendment.

The amendment (No. 2895) was withdrawn.

AMENDMENTS NO. 2896 THROUGH NO. 2899

Mr. GRAHAM. Mr. President, I propose four amendments to be considered en bloc, which I send to the desk.

The PRESIDING OFFICER. The amendments en bloc will be read by the clerk.

The legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM] proposes amendments numbered 2896 through 2899.

Mr. GRAHAM. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 2896

On page 46, line 23, strike out $31,468,000 and insert in lieu thereof "$31,128,000.".

AMENDMENT NO. 2897

On page 47, line 4, strike out "$23,958,000" and insert in lieu thereof "$23,741,000.".

AMENDMENT NO. 2898

On page 47, line 8, strike out "$2,260,000" and insert in lieu thereof "$2,215,000.".

AMENDMENT NO. 2899

On page 47, line 13, strike out "$2,480,000" and insert in lieu thereof "$2,190,000.".

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I have sent to the desk four other amendments which relate to holding the overhead and general administrative costs to the Department of the Interior and the four other offices to their 1992 level of expenditure, consistent with the amendment which has previously been adopted, to apply that principle to the office of the Secretary of the Department of the Interior.

The PRESIDING OFFICER. Is there further debate on the amendment?

The Senator from West Virginia.

Mr. BYRD. Mr. President, if the Senator would agree, if he has no further comments to make at this point, I would like to suggest the absence of a quorum, so that Senator NICKLES can come to the floor.

As far as I am personally concerned, I do not mind accepting the amendments en bloc. But I do not know how Senator NICKLES would feel about it until he can either come to the floor or be reached, and an effort is being made at this moment to try to reach him. So maybe he will give the answer, an answer, very soon.

If he has no objection, if he does not want to speak longer at this point, I will suggest the absence of a quorum.

In the meantime, though, before I suggest the absence of a quorum, I hope that our respective Cloakrooms and floor staffs can determine what amendments are expected to be offered on both sides of the aisle, and whether or not Senators who wish to offer such amendments would agree to time limitations thereon.

If we could establish a list of amendments and get consent there will be no other amendments offered, that would be some progress.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. Mr. President, the Senator from Oklahoma is here and I believe is prepared to comment relative to the amendments which I offered en bloc relative to the overhead budgets of four subagencies within the central office of the Department of the Interior.

The PRESIDING OFFICER. Does the Senator from Oklahoma wish to be recognized?

Mr. NICKLES. Mr. President, the Senator is correct. We have reviewed his amendments. I compliment him on his amendments. I cleared this. These amendments have been cleared with Senator BYRD as well, and I urge their adoption.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendments en bloc.

The amendments en bloc (Nos. 2896 through 2899) were agreed to.

Mr. GRAHAM. Mr. President, I move to reconsider the vote.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NICKLES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. AKAKA). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, shortly I will propose a list of amendments and ask unanimous consent that further amendments on the bill be limited to that list, which will include amendments from both sides of the aisle. Our staff has been working on those amendments, and staff on both sides have been trying to put together the list. And I am going to put the Senate on notice that shortly I will ask consent to limit amendments to that list.

Mr. NICKLES. Will the chairman yield just for a comment?

Mr. BYRD. I am happy to yield.

Mr. NICKLES. I would just make the comment we have compiled a rather extensive list, but I would add we are not asking for additional amendments. I might also advise the Senate that amendments that require additional spending will also have to have some rescissions in them as well to keep us within the 302(b) allocations. But we have a very extensive list. I hope the Senator from West Virginia, as chairman of the subcommittee and also the full committee, can propound that unanimous-consent request to limit amendments very shortly.

Mr. BYRD. I thank my friend and I will do that. I am glad that he has pointed out any amendments that require additional spending will have to be offset because we are right at the ceiling on both the outlays and the budget authority.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2900

(Purpose: To amend the holding fee to provide for a small mining operation exemption)

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 2900.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At page 11, line 24, strike all after "quality standards:" through page 14, line 2 and insert in lieu thereof, the following: "*Provided further*, That notwithstanding any other provision of law, that effective upon the date of enactment of this Act, for fiscal year 1993, for each unpatented mining claim, mill or tunnel site on federally owned lands, in lieu of the assessment work requirements contained in the Mining Law of 1872 (30 U.S.C. 28–28e), and the filing requirements contained in Section 314(a) and (c) of the Federal Land Policy and Management Act of 1976 (FLPMA) (43 U.S.C. 1744(a) and (c)), any claimant not meeting the conditions in the following sentence shall pay a claim rental fee of $100.00 to the Secretary of Interior or his designee on or before August 31, 1993 in order for the claimant to hold such unpatented mining claim, mill or tunnel site for the year ending on September 1, 1993. *Provided further*, That for fiscal year 1993, any claimant that is producing from 10 or fewer claims in an integrated operating area that has less than 10 acres of unreclaimed surface disturbance from mining activity may elect to either pay a claim rental fee as described in the preceding sentence for fiscal year 1993 or in lieu thereof do assessment work required by the Mining Law of 1872 (30 U.S.C. 28–28e) and meet the filing requirements of FLPMA (43 U.S.C. 1744(a) and (c)) on such 10 or fewer claims in such integrated operating area and certify such to the Secretary by August 31, 1993: *Provided further*, That for each fiscal year after fiscal year 1993, for each unpatented mining claim, mill or tunnel site on federally owned lands, in lieu of the assessment work requirements contained in the Mining Law of 1872 (30 U.S.C. 28–28e) and filing requirements of FLPMA (43 U.S.C. 1744(a) and (c)), claimants not meeting the conditions in the following sentence shall pay an annual claim rental fee of $100.00 per claim to the Secretary of the Interior or his designee on or before August 31 of the preceding fiscal year in order for the claimant to hold such unpatented mining claim, mill or tunnel site for the following year beginning on September 1: *Provided further*, That in each fiscal year after fiscal year 1993, claimants that are producing from 10 or fewer claims in an integrated operating area that has less than 10 acres of unreclaimed surface disturbance from mining activity may elect to either pay a claim rental fee as described in the preceding sentence for the year or in lieu thereof do assessment work required by the Mining Law of 1872 (30 U.S.C. 28–28e) and meet the filing requirements of FLPMA (43 U.S.C. 1744(a) and (c)) on such 10 or fewer claims in such integrated operating area and certify such to the Secretary by August 31 of the preceding fiscal year: *Provided further*, That for every unpatented mining claim, mill or tunnel site located after the date of enactment of this Act, the locator shall pay $100.00 to the Secretary of Interior or his designee at the time the location notice is recorded with the Bureau of Land Management to hold such claim for the year in which the location was made: *Provided further*, That the co-ownership provisions of The Mining Law of 1872 (30 U.S.C 28–28e) will remain in effect except that the annual claim rental fee, where applicable, shall replace applicable assessment requirements and expenditures: *Provided further*, That failure to make the annual payment of the claim rental fee as required by this Act shall conclusively constitute an abandonment of the unpatented mining claim, mill or tunnel site by the claimant: *Provided further*, That nothing in this Act shall change or modify the requirements of Section 314(b) of FLPMA (43 U.S.C. 1744(b)) or the requirements of Section 314(c) of FLPMA (43 U.S.C. 1744(c)) related to filings required by Section 314(b), which shall remain in effect: *Provided further*, That the Secretary of the Interior shall promulgate rules and regulations to carry out the purposes of this Section as soon as practicable after the effective date of this Act.".

Mr. STEVENS. Mr. President, this is an amendment that I call a small miner provision for the holding fee. The bill already imposes a fee in lieu of what we call assessment work. This will permit in fiscal 1993 and all subsequent years, a small miner who is in production, who is in an integrated operating area of 10 or fewer claims and has 10 or less acres of unreclaimed surface disturbance, to do the assessment work instead of paying the $100 fee.

I might say that we have had it checked out by the Congressional Budget Office. It does not have a fiscal impact adverse to the bill. I do believe it is necessary for States such as mine. I still believe the small miner is the backbone of the mining industry.

Mr. President, we have areas of my State where the miners are really in a subsistence economy, lifestyle miners they are called. They live off the land, take fish and game and mine in the summertime. They really do not live where they have much of a cash economy unless they do become very fortunate and have a substantial discovery

and are able to take that to patent and proceed with large mining operations in conjunction with a partner that helps finance that kind of development.

I believe this amendment is necessary to keep the small miners involved in the process. It is not a windfall in any way. As I have indicated, the way it has been drafted, it does not reduce the moneys that will come in under the bill provisions that were inserted by the committee dealing with the payment of the holding fee.

This will amend the provision that starts on page 11 of the bill that deals with the establishment of the holding fee.

I am pleased to have any discussion that anyone wishes to have on it.

Mr. NICKLES. Will the Senator yield?

Mr. STEVENS. Yes; I will be happy to yield.

Mr. NICKLES. After looking at the Senator's amendment, I hope I understand it. I am not an expert in mining fees. I appreciate the fact that the Senator from Alaska has a lot of experience because he has worked in the Department of the Interior prior to coming to the Senate, so he knows more about mining fees than most.

Mr. President, correct me if I am wrong, but under the Senator's amendment, it says for small miners. I guess that is a miner producing from 10 or fewer claims at one time?

Mr. STEVENS. That is correct.

Mr. NICKLES. That miner would have the option of either paying the fee or doing the diligence requirement; is that correct?

Mr. STEVENS. Doing the assessment work that is currently required under the diligence requirement of the Mining Law of 1872.

Mr. NICKLES. So they would have the option of doing one or the other, but they would have to do one or the other.

Mr. STEVENS. They have to do one or the other, that is correct.

Mr. NICKLES. I appreciate the Senator's clarification. I personally do not have any objection to the amendment. I understand that there may be another Senator who wishes to speak on it, Senator BUMPERS, or another Senator. We may have to set it aside or wait until their arrival. But I personally do not have any objection to it.

Mr. BYRD. Mr. President, I understand Senator BUMPERS does wish to speak on the amendment.

Mr. STEVENS. Very well. I will be happy to wait for the Senator from Arkansas. It was my understanding during the statement made by the Senator that he indicated that he did understand this small miner problem, and I will be happy to discuss it with him.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD. Mr. President, I have a list of amendments now which have been worked up by the staffs on both sides of the aisle.

I ask unanimous consent that these amendments be the only first-degree amendments to be in order and that they be subject to relevant second-degree amendments.

They are as follows: Mr. GORTON, timber salvage in spotted owl habitat conservation areas; Mr. WALLOP, an amendment on net receipts; Mr. WALLOP, an amendment on abandoned mine land reclamation fund; Mr. FOWLER, timber sales appeals; Mr. FOWLER, below-cost timber sales; Mr. STEVENS, authorize transfer of historic building in Alaska; Mr. BOND, subhumid agroforestry; Mr. GORTON, reallocate funds for Alpine Lakes land acquisition to other Washington State projects; Mr. BOND, Forest Service—prohibit expenditures for computer purchase or maintenance pending Department of Agriculture field structure reorganization; an amendment by Senators WALLOP and BURNS, CRAIG and BAUCUS to strike $148,000 in NPS funding for wolf reintroduction EIS and provide funds for BLM project in Wyoming; Mr. STEVENS, small mining exemption, which is now pending. This is not pending. Mr. STEVENS, an amendment on mining holding fee for small miners, which is pending; Mr. REID, an amendment on uncommon variety minerals; Mr. REID, bonding requirements; Mr. REID, mining; Mr. JEFFORDS on grazing fees; Mr. SMITH on freeze; Mr. DOLE on Hanover Station; Mr. LOTT on battlefields; and Mr. SEYMOUR on private relief. Those would be the only first-degree amendments which would be in order. As I said, relevant second-degree amendments would be in order.

Also, an amendment by Mr. BINGAMAN on boots and saddles initiative. I believe that amendment has already been acted on.

Mr. NICKLES. Will the chairman yield?

Mr. BYRD. In any event, I will include it in the list in a moment. Yes, I yield.

Mr. NICKLES. Have we taken care of Senator LIEBERMAN?

Mr. BYRD. That amendment dealing with the Bosnia——

Mr. NICKLES. No, not Bosnia.

That amendment has been taken care of.

We also have an additional amendment of Senator KASTEN, dealing with battery research.

Mr. BYRD. Very well. I add that to the list.

Mr. NICKLES. Did the Senator mention Senator SEYMOUR?

Mr. BYRD. I did.

Mr. NICKLES. And Senator MCCAIN?

Mr. BYRD. Senator MCCAIN has a point of order. I am not ruling out any points of order at any time, in my request I am not.

Mr. NICKLES. Did the Senator include a technical amendment by the Senator from West Virginia?

Mr. BYRD. I am glad the Senator reminded me. I will include that.

Mr. NICKLES. I think the Senator has included everything that we have on our list.

Mr. BYRD. I thank the Senator. That completes the list.

Mr. CONRAD. Reserving the right to object, might I inquire if there is a unanimous-consent request before the body on amendments that might be offered with time agreements attached?

Mr. BYRD. No, there is none.

Mr. CONRAD. I thank the Senator.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank the Chair. I thank Mr. NICKLES, and I thank staff on both sides of the aisle.

Now, there is an amendment pending by Mr. STEVENS.

I am told Senator BUMPERS is on his way to speak to the amendment.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from West Virginia suggests the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Parliamentary inquiry, Mr. President. As I understand the order which was entered and which was presented by me, a list of amendments has been agreed to as being the only first-degree amendments that may be offered, but the order does not guarantee that any of those amendments will be offered. Am I correct?

The PRESIDING OFFICER. That is correct.

Mr. BYRD. So that if there comes a time when Senators are not willing to come forward and call up their amendments, the Senator from West Virginia or any other Senator is free to move to go to third reading and ask for the yeas and nays on that vote. And at some point that may be done. I would not anticipate doing that tonight. But I want to put all Senators on notice that that may be done. At such time as I decide that is the only way to get action, I will give the Senator 10 minutes, as I did on one occasion last year, and I think they know I will not be kidding.

So if I at some point tomorrow say that within 10 minutes I am going to

go to third reading. Senators will know to take that statement seriously. Even though a list of amendments has been entered as being appropriate, it does not guarantee that we are going to stay around and wait forever for those amendments to be called up.

The leader, I understand, would like to go for a while tonight further and get as much action on this bill as possible. So I hope that Senators will be prepared to call up their amendments.

Senator STEVENS has one. Senator BUMPERS is on the floor now. But I hope Senators will understand that there could be further rollcall votes tonight.

I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, parliamentary inquiry. Is there an amendment pending?

The PRESIDING OFFICER. There is a Stevens amendment No. 2900 that is pending.

Mr. LEAHY. And is there an order entered into either on time or on sequence of amendments?

The PRESIDING OFFICER. It is first-degree amendments.

Mr. LEAHY. Mr. President, I simply wish to state that I agree with the words of the distinguished senior Senator from West Virginia. I recall a couple years ago having a 5-year farm bill on the floor and I was told that 5 years before, in a far, far less complicated 5-year farm bill, one that had far less titles, amendments, and so on, that took some 7 weeks to pass. I really did not need to be told that. I sat here during those 7 weeks. I was not chairman of the committee at the time. The distinguished Senator from West Virginia, I recall, being here sometimes until 2 o'clock in the morning when we had votes on that. And it took 7 weeks. A lot of talk. I determined I would not do the same with a 5-year farm bill a couple years ago, and we pushed it through in less than 7 days, a far more complicated, a far longer bill, in fact, the longest piece of legislation ever passed by the Senate at that point.

One of the things I did, and I must admit it is not the most original idea because I heard the Senator from West Virginia do it before, I made it very clear, and had the support of the ranking member, that if amendments were not there, people were not ready to go, we would assume that nobody had an amendment they wanted and we would go to third reading.

I recall a couple of times when we started into the process of third reading, and it was amazing; it was like a SWAT team arriving as the doors of the cloakrooms opened and suddenly amendments and Senators came forth. But knowing we would eventually do it that way, we moved forward.

I must say as one Senator who has had amendments on this bill and others, I agree with the Senator from West Virginia. We all know time is running down. We all know we are going to try to recess for the Republican Convention and other matters next week. We all know there is a short time remaining between now and the time we will leave for the election campaigns, Members on both sides of the aisle. We are kidding ourselves if we do not come forward with amendments.

I was the Presiding Officer of this body, had the honor the last time when the distinguished Senator from West Virginia announced he was checking the time.

The Senator will recall. When I was the Presiding Officer of the Senate, the Senator from West Virginia called for third reading, and I recall what happened then. But I also recall an awful lot of Senators on both sides of the aisle applauded the distinguished Senator from West Virginia for getting that done, and having action on the final conclusion. And the same conclusion we would have had 3 days later had we stalled, moved around, and would have still come out with the same thing. The one big difference is most of us went home to our families 3 days sooner.

Mr. President, I want to say as one who has seen that method work, I commend it to anybody who has to manage a bill here. It would help an awful lot on the other pieces of legislation, and I applaud the Senator.

Mr. BYRD. Mr. President, I thank the distinguished Senator.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas [Mr. BUMPERS] is recognized.

AMENDMENT NO. 2900

Mr. BUMPERS. Mr. President, I wanted to engage the Senator from Alaska in a colloquy about his so-called small mine claim exemption.

Senator, my question is this: I have read the Senator's amendment for the first time. I need to read it more. But let me ask two or three questions. As I understand it, this would exempt any miner who has 10 claims or less and who has 10 or less acres of what the Senator calls unreclaimed surface area; is that correct?

Mr. STEVENS. The Senator is partially correct. Ten acres or less in surface unclaimed and that the mines are in production, and not more than 10 claims in an integrated operating area. But basically, I might say to the Senator, our count is somewhere around 200 such miners in Alaska, very small miners, basically in the north and in the western portion of Alaska.

Mr. BUMPERS. A miner who has 10 claims has probably 200 acres. If his son and his wife and his daughter each have 10 claims, we are up to 800 acres. Every person who has 10 claims or less, as Everett Dirksen used to say, the first thing you know you are talking about real money.

Mr. STEVENS. The answer, if we may have this sort of colloquy, these have to be in production. They are not just claims. The claims have to be in production, 10 associated claims, and only one such exemption per person. I have to tell you that you do not find many children and wives out staking claims. These are very remote, small miners. The option is to pay the $100. If they really have the money to go out and file for more claims, they are going to pay the $100 rather than do the assessment work which is required, which is rather arduous, I am sure you know, in Alaska.

Mr. BUMPERS. A miner who has 10 claims would be subject to an annual holding fee of $1,000 under the bill.

Mr. STEVENS. That is correct.

Mr. BUMPERS. One hundred dollars per claim. There are 1.2 million claims filed in this country, or at least there are 1.2 million claims. Can the Senator tell me with any degree of accuracy how many of those claims will be covered under his amendment?

Mr. STEVENS. I can tell you in Alaska. I cannot tell you nationwide. I do not have that knowledge nationwide. We have asked for those numbers. I still think they are very small. If you keep in mind the parameters now, that to qualify they must have the mine in production, 10 acres or less surface disturbance, and that the mining claim total is 10 claims or less.

We were told that less than 10 percent of the claims that have been filed nationwide could possibly qualify. There would be even less once you start trying to determine the integrated requirement.

In our State, of course, they do file the step-off claim so that, if you have a major claim, you would file at least five around it in order to protect any claim jumping as far as your original object of your discovery.

So it is probably true that there are not many subsistence miners in the rest of the country. I think there are some in Nevada. There are a few in other portions of the Western States. But in our State, there are many who are totally isolated communities. This imposition of this $1,000 fee would be a cost to them, and they would rather do the assessment work under the current law.

The way the amendment is drafted, it will not reduce the moneys that are derived from the basic provision that is in the committee bill. It does not reduce the income from the bill. It does provide an exemption if they wish to use it.

If those people are associated with some mining company, a fairly large size, of course they would rather take the $1,000 under your hypothetical than do the work themselves. But for those people who live in the area, in most instances I might say to the Senator it would cost more than $1,000 for some-

one who does not live in the area to get to those claims. So basically this is going to protect people who live in the area where their mining claims exist.

Mr. BUMPERS. Let me just say in all fairness that BLM has testified before both the Energy Committee on which I sit and before the Interior Appropriations Committee on which I sit. They have testified a number of times that they never checked as to whether or not this assessment work has been done or not. You fill out a BLM form saying: I did $100 worth of work in the past year in what we call assessment work on my claim.

One of the reasons both the administration, incidentally, and OMB—and this Senator—have always been for a holding fee is not to penalize miners, but to just be sure that everybody is playing by the same rules. Some people did assessment work; some people did not. But all they had to do was just say they did it, and BLM said they had no way of knowing. Obviously, BLM is not going to go out and check 1,250,000 claims.

And they do live off the land. They go out annually and come back once. They are not going back and forth. So they are out there working their claims.

As I told you, my Eskimo friend goes out and works his claim. And when he comes back, if he has been successful, he has gold. If he has not been successful, he does not bring back anything.

He has a small place where he lives while he is doing that assessment work every year. I have him in mind in connection with this amendment. I know that that is going to be a burden to pay the holding fee, because he will work the claims anyway, is my point to the Senator.

This is protection for those really working the claims. Remember, they must be in production. Everybody else is doing assessment work, and is doing it just to make the claims valid, despite the fact that they are not in production.

The requirement for being in production is the difference between existing law under the 1872 law and my amendment. This requires that it be in production if you want to do your assessment work and file your affidavit. You do not have to pay the $1,000 annually to hold those 10 claims.

Mr. STEVENS. Mr. President, the Senator is correct. But when it gets down to this limited number, and a person comes in and files an affidavit, remember, that statement is under oath. And under section 1001 of title 18, it becomes a felony, a criminal offense, to make that statement to the BLM that the assessment work has been done. And they would forfeit the claim if they were found to be lying.

I tell you, I do not think many of our people are going to lie about $1,000 worth of assessment work. The real problem is whether they have the $1,000. They are going to lose their claims if they do not have the cash. I am sure the Senator realizes that. This bill will impose a substantial burden on people who live in a subsistence economy, in a mining sense.

Mr. BUMPERS. Mr. President, I will make a second point to the Senator.

The second reason we wanted to establish the holding fee rather than allowing them to certify that they had done assessment work that had a value of $100 on each claim, quite frankly, was to keep people from going out with a pick-ax and disturbing the surface of the soil just so they can say they did assessment work.

Maybe they are being honest. Some people sent in certification that they did assessment work, and they did not. Others are a little more honest, who would go out and dig around a little bit so they can honestly say they did assessment work, and disturb the surface, and I was disturbed at that.

If you have a claim—and the Senator from Nevada has said on a number of occasions that he has some mining claims that have been handed down in the family for 50 to 75 years—to suggest that when you have had a claim for 20 to 50 years, that you are going out there and doing 100 dollars' worth of assessment work every year, year after year after year, just to hold that claim, borders on being ludicrous.

I think the Senator would agree with me on that.

Mr. STEVENS. Mr. President, I say to the Senator that I do not know of any claim in Alaska that has been worked for 50 to 100 years in production. Again, I call your attention to the basic requirement that these mining claims must be in production.

This is not scratching the surface; not hiring someone to bring in a D–8 Cat and make a couple of tracks, which we all know has happened in some places. I remember when the situation existed in California. But this is not the same situation.

We are talking about small miners that work their claims, and literally are working them in production, trying to make a living off what they are producing. The key words again are "in production"—10 claims or less.

Mr. BUMPERS. Mr. President, I understand precisely the point the Senator is making. But now there is another point to be made.

The Senator from West Virginia, the distinguished Senator from West Virginia and chairman of the subcommittee, ought to have more than a passing interest in this; that is, the revenue loss on this bill. This bill has been scored—and I recognize it is a big winner this year, because people are going to be making a double payment in 1993. And they have scored this thing as a $38 million winner next year.

Obviously, if the Senator's amendment passes, it is going to be something a lot less than $38 million.

Mr. STEVENS. I might say that we have decided not to give out the exact figures, because they are still estimates. But I have been assured through my staff, and I think the committee staff also, that my amendment is not a revenue loser because of the requirement that it must be in production.

It is a very limited concept.

Mr. BUMPERS. How could the Senator's bill, which exempts up to 9 of the 10 claims, not be a revenue loser?

Mr. STEVENS. It is not, Mr. President, because it provides for the work to be done in the same area.

Mr. BUMPERS. To anybody who chooses to do the assessment work and not pay the $100, it is a revenue loser; is it not?

Mr. STEVENS. They are still going to produce the same amount of revenue under this bill.

Mr. BUMPERS. Mr. President, with the utmost of respect, that is not possible.

Mr. STEVENS. Of course, Mr. President, some are going to do the labor—a very small portion. The others are going to pay twice in that period. There is no way to determine how many are going to opt to take this, but it is a very small number, because there are not that many claims in production. It is a de minimis loss.

We have been told we can reliably inform the Senate that there is no revenue change under the terms of this bill if my amendment is adopted.

Mr. BUMPERS. Would the Senator be willing to add to his amendment an additional criteria for the definition of a small miner to say someone who is deriving less than, we will say, $500,000 a year in revenues from his claim?

Mr. STEVENS. I do not know any small miners making $500,000 a year.

Mr. BUMPERS. Senator, if you are willing to add that——

Mr. STEVENS. Mr. President, he has to certify that the production in that area did not net him more than $500,000? You do have to buy grub and hire someone to fly equipment in, and that is why these guys are on the margin all the time.

I do not know anybody in this category, with 10 claims or less in production, a small miner, making more than $500,000.

I would be happy to put a limitation or a cap on that.

Mr. BUMPERS. Mr. President, I am not talking about making $500,000. I am talking about revenues of $500,000.

Mr. STEVENS. Grossing?

Mr. BUMPERS. Yes.

Mr. STEVENS. I do not know, Mr. President. If you think about the price of gold—and that is primarily what you are talking about for small miners operating now—as I said before, 75 percent of the revenue is actually paying for services that come into my State.

So if you are making $500,000, you are paying out 70 percent of that to some-

one outside. Your adjusted gross income, before you start talking about the cost of your own grub and everything, is so small, the margin is so small, that I hope you will agree on setting a net figure. Because $500,000, if you brought $500,000 out of one of these claims in my State, you will have paid out at least 70 percent of it.

So you are talking about a good $500,000 going out of the State just to make that. And that means you have $200,000 gross to pay all the other local costs—grub, the people who work for you, the filing fees, and everything else; and your plan, reclamation plan. You realize that there are substantial fees that have to be paid to the Government beyond this $100.

Mr. BUMPERS. Mr. President, I am sympathetic to the Senator. I have discussed this privately with him a couple of times. He told me he was intending to try to craft some sort of exemption for small miners. As the Senator knows, as chairman of the Small Business Committee, that is what we do constantly, try to protect the small. We gave away the store to the big mining companies this afternoon. The least we can do is help the small miners.

I am really worried about the definitions in his amendment. I will tell you, I do not want to take up more time. The Senator from West Virginia has been very patient. I will not object to his amendment, but I can tell you that between now and the time we go to conference with the House, I want BLM to give us some statistics so that I will have a better feel for it.

The Senator from Alaska can be thinking about what kind of revenues he considers small business. I will check with the Small Business Administration on it, because I do not mind helping small miners. God knows, as I say, we certainly helped the big boys this afternoon.

Mr. STEVENS. I appreciate the Senator——

Mr. BUMPERS. If I may, Mr. President, I do not want to commit to championing this amendment in the conference, or any of them.

Mr. STEVENS. I am happy that the Senator is willing to work on it in conference.

Let me tell you of just one miner I know. He saves his gold that he makes, and about every 3 or 4 years he takes it down to the city and has it minted into coins.

And he sells those within the State. He does not have any income at all until he sells that gold. So I do not know how you put a net figure on what he is doing under those circumstances, but I do not intend to protect a large return from any kind of a corporate operation of a small number of claims. We are trying to protect the subsistence miner who lives in the area, who works the area, and every once in a while, like an artist, he might finally end up by selling a painting after 3 or 4 years. After 3 or 4 years' work, this fellow in 1 year is probably going to bring home a lot of money.

That is what makes me hesitant to say I want to agree to that limitation. The Senator from Arkansas and I have arguments on the floor, but we also have discussions privately, and I consider him to be a very close friend.

I think, in terms of the small business concept, the Senator from Arkansas and I ought to be going in the same direction. We both are committed, as members of the Small Business Committee, to assist the small business people. These people who live off the land and mine need some protection from this holding fee.

Let us take my friend who mines 4 years and, in the 5th year, he gets an income. He will be paying out $5,000 to hold his claims before he gets any revenue. He would much rather work those claims and pay taxes in the fifth year. That is a small business that I know of personally, and I will be pleased to take my friend up to visit this person.

I hope that the Senator will allow us to take this to conference. And I take his statement that he does not intend to be a champion of it, but I also take it for granted, as chairman of the Small Business Committee, he will have the same objective as I, and that is to try to honestly protect the legitimate small miner who works in the rural portion of America.

Mr. BUMPERS. Let me say to the Senator from Alaska that I appreciate his words. He certainly is correct on that. I think that the definition of small miner, before it would ever be satisfactory to me and certainly to the House committee, would have to be nailed down with considerably more definition.

I have a statistic here from BLM that out of 100,000 active claims—all the active claims in the whole United States, including Alaska—75,000 of them are held by those holding 10 or fewer claims.

Mr. STEVENS. They are not in production, though.

Mr. BUMPERS. Pardon?

Mr. STEVENS. I challenge BLM or anyone else to show they meet the basic requirement of being in production?

Mr. BUMPERS. Those are things I do not know the answer to.

Mr. STEVENS. I understand.

Mr. BUMPERS. The Senator and I will need to find out.

Mr. STEVENS. I appreciate that, and I urge the managers of the bill to let us accept the amendment and take it to the conference.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I do not want to interrupt the flow of debate. There is a brief statement I would like to make. A comment was made yesterday challenging the independence of Senators on the Republican side of the aisle. I do want to comment on that, and I shall be relatively brief. But I alert the Senator from West Virginia [Mr. ROCKEFELLER] that some of what I have to say relates to comments which he made yesterday apparently in a press conference which I saw repeated on C–SPAN last night.

Mr. STEVENS. If I may interrupt my friend, I had not yielded the floor. I asked a question. I am happy to have him make his statement. I am happy to yield to my friend, but I still have the floor.

Mr. SPECTER. Mr. President, I thought my distinguished colleague——

The PRESIDING OFFICER. The Senator has not yielded the floor. The Senator from Alaska still has the floor.

Mr. STEVENS. I was waiting for an answer, Mr. President—and I apologize to the Senator from Pennsylvania—to my question whether we could take this—I asked if the managers would allow us to take this amendment to conference on just a voice vote, in effect, because, as I understand, the Senator from Arkansas is not going to object. He is the only person objecting that we heard.

Mr. SPECTER. I am glad to yield to my colleague from Alaska, but I ask unanimous consent that I may be recognized at the conclusion of action on this amendment.

Mr. STEVENS. This is another matter. I still have the floor.

Mr. BYRD. Mr. President, reserving the right to object, and I do not intend to object, would the distinguished Senator, in order to help us to move along on this bill, give us a timeframe for his speech, 10 minutes, 15 minutes, or what?

Mr. SPECTER. I thank the distinguished chairman of the Appropriations Committee. Not in excess of 15 minutes, considerably less, I hope.

Mr. BYRD. Fine. If the Senator will make the request.

Mr. SPECTER. Mr. President, in line with what the distinguished Senator from West Virginia has said, I ask unanimous consent to be granted, at the conclusion of the proceedings under this amendment, a period not to exceed 15 minutes.

Mr. WARNER. Mr. President, reserving the right to object, and I will not object.

Mr. PRYOR. Mr. President, reserving the right to object.

Mr. WARNER. Has the Chair recognized the Senator?

Mr. STEVENS. Mr. President, I still have not yielded. I would like to know the situation. Do I have the floor?

The PRESIDING OFFICER. The Senator from Alaska still has the floor.

Mr. STEVENS. I am pleased to yield to the Senator from Pennsylvania for the purpose of that unanimous-consent request.

Mr. SPECTER. I thank my colleague from Alaska.

The PRESIDING OFFICER. Is there objection to that request?

Mr. PRYOR. Mr. President, reserving the right to object, and I do not want to object, I certainly do not want to interrupt the flow of the appropriations process, I say to my very good friend from West Virginia, the distinguished chairman.

I think, in all fairness, if I might say to the Senator from Pennsylvania, inasmuch as the Senator has already stated that the remarks he is about to make relate to the remarks made by the junior Senator from West Virginia [Mr. ROCKEFELLER], I think in fairness, Mr. President, that the Senator from Pennsylvania might withhold those remarks until the Senator from West Virginia [Mr. ROCKEFELLER] is on the floor and at least able to hear the statement of the Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I have already asked that the Senator from West Virginia, Senator ROCKEFELLER, be notified, so I have no objection to that, provided Senator ROCKEFELLER is at hand and that I may proceed within the next 10 or 15 minutes.

The PRESIDING OFFICER. Is there objection to that request?

Without objection, is so ordered.

Mr. STEVENS. I yield to the chairman of the committee.

Mr. BYRD. I am prepared to accept the amendment by the distinguished Senator from Alaska.

The PRESIDING OFFICER. If there is no further debate the question occurs on the amendment.

The question is on agreeing to the amendment.

The amendment (No. 2900) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I ask unanimous consent that, upon the completion of the remarks by the distinguished Senator from Pennsylvania, the distinguished Senator from Georgia [Mr. FOWLER] be recognized to call up an amendment.

Mr. SYMMS. Mr. President, reserving the right to object, and I guess the question I want to ask is, do the managers of the bill anticipate then that we are going to have a debate on the Fowler amendment and vote on it tonight, or are we going—because I anticipate this amendment could take 2 or hours of debate from those of us opposed to it. I just think that the Chair needs to realize this is not going to be an easy amendment.

It seems to me this amendment is fairly ambitious to bring up, for example, at 9 o'clock at night. I had several Senators call me and ask me to be sure to object to any time agreement on any timber-related amendments of the Senator from Georgia. I want the leadership to know that.

Mr. NICKLES. If the Senator will yield, I understand the Senator's concerns. I tell our friend and colleague from Idaho, we also contacted Senator CRAIG. It was our hope we could dispose of the Fowler amendment. It was also our hope we could have a vote on it very shortly. I tell our friend and colleague, we debated this issue before and the Senator from Idaho, I think, prevailed on this issue in the past. It was our hope we would not have to go through a very long and lengthy debate, that after a short period of time the motion to table could be made.

Mr. SYMMS. Mr. President, reserving the right to object further, the Senator from Idaho will not object as long as there is no time agreement. I anticipate there will be a motion to table. Then, if the motion to table is not successful, it would be Katie bar the door.

Mr. NICKLES. The Senator is correct.

Mr. SYMMS. I totally agree with that.

The PRESIDING OFFICER. Is there objection to the request? Without objection, it is so ordered.

The Senator from Pennsylvania is recognized for 15 minutes.

Mr. SPECTER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Pennsylvania suggests the absence of a quorum. The clerk will call the roll.

The legislative clerk proceed to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, may I say, I have received word from Senator ROCKEFELLER that at the moment he cannot come to the floor. He would be willing for Mr. SPECTER to proceed with his statement at this time.

Mr. SPECTER. I thank the distinguished chairman of the Appropriations Committee.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 15 minutes.

Mr. DOLE. Will the Senator from Pennsylvania yield?

Mr. SPECTER. I do, with consent that I do not lose my right to the floor under the previous unanimous-consent arrangement.

Mr. DOLE. Mr. President, it was my hope—and I have not talked to the majority leader—it was my hope we would stop voting about 9 o'clock tonight. It was 9 o'clock last night, 9 o'clock Monday night, probably 10 o'clock tomorrow night. I do not know how late on Friday.

As I understand it, after this statement, there will be a timber amendment that will probably take an hour, which would be 10:30, 11 o'clock.

We have been trying to cooperate on limiting the amendments and helping the managers of the bill. We want to continue to cooperate, but we do not want to stay here until 10, 11, 12 o'clock at night.

Mr. FOWLER. Mr. President, may I say to the distinguished minority leader, the Senator from Oklahoma and the Senator from Idaho have been very cooperative. We are waiting for the junior Senator from Idaho [Mr. CRAIG].

But it is not anticipated, in our informal conversations, that my amendment will take an hour; it should not take a half an hour. The issue is very clear and has been debated and voted on before.

But, as the Senator knows, we are just trying to move a long list of amendments that we have and the long agenda that we have to finish between now and early next week.

We are simply trying to dispose of some amendments this evening.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. DOLE. Yes.

Mr. BYRD. I hope we can proceed to the amendment by Mr. FOWLER. It is my understanding that there will be a motion to table that amendment by Mr. CRAIG. And, as the distinguished Senator from Georgia has already indicated, he does not intend to take long. I had been informed earlier that the majority leader wanted to go awhile.

The Senate spent over 8 hours today before it got to its first vote on an amendment to this bill, and we have several amendments yet, some of which are controversial.

I hope that we can have one more vote, if it does not take too long. If it looks as though it is going to go on awhile, we could close it up and go home.

I would like to get home too, to my wife and my little dog Billy Byrd.

Mr. DOLE. I have my little dog, Leader, too. He does not know me anymore.

Mr. BYRD. If we could proceed, I say to the distinguished Republican leader, and let us see. It might not take long.

Mr. DOLE. I want to be cooperative. We have been trying to work on a number of other things. I am going to go in and see the majority leader now about trying to avoid much activity on Saturday. I think there are a number of things we can agree to do. It would save us a couple of days by agreeing to do these things, not having to be on the floor.

But I hope maybe that might be the last vote. I sort of promised my colleagues 9 o'clock would be it.

Mr. SYMMS. Mr. President, will the Republican leader yield?

Mr. DOLE. Yes.

Mr. SYMMS. I would just like to say, Mr. President, so there is no misunderstanding by the distinguished President pro tempore or the minority leader or others here, that this is an extremely controversial amendment. It is as controversial as the previous Bumpers mining amendment.

And I want to leave the understanding that if there is a tabling motion made by my colleague from Idaho, who I know wishes to do that, and it does not pass, this amendment might take several days before the Senate gets through. I think the Senate needs to realize that.

I do not want Senators to think that we are going to stand around here for 10 and 15 minutes and have a vote and it is going to be all over with. It is not going to work out that way. I want to be honest about this and up front.

Mr. DOLE. I am inclined to vote for the tabling motion if it does not take too long.

The PRESIDING OFFICER. The Senator from Pennsylvania has the floor.

Mr. SPECTER. Mr. President, I thank the Chair.

THE HEALTH CARE CONTROVERSY

Mr. SPECTER. Mr. President, I had sought recognition on the floor because of a number of comments made yesterday in a press conference, which I saw last night on C–SPAN, reflecting directly upon the independence of Senators on this side of the aisle, specifically this Senator, as well as other Senators. I think there needs to be a response to these comments.

I had said earlier that these statements were made by the Senator from West Virginia, Senator ROCKEFELLER. I had asked staff to call his office prior to seeking the floor, and they could not get through on his telephones. The senior Senator from West Virginia noted that Senator ROCKEFELLER did not intend to come to the floor, so I will proceed at this time.

The comments were made in the context of an ongoing controversy over health care. The comments were made in a political context.

I might say preliminarily that it is the hope of this Senator that this body would move ahead to the consideration of the substance of health care. This Senator sought to bring the matter to the floor last Wednesday, July 29, by adding an amendment on health care to the energy bill. My amendment included part of S. 1936, which has 23 cosponsors and was drafted by the so-called Chafee task force, and the entirety of S. 1995, which this Senator authored. The distinguished majority leader at that time took the floor and said that the health care amendment did not belong on an energy bill. I replied that I would be glad to withdraw the amendment if we could have a date certain to take up health care on the Senate floor. The distinguished majority leader replied that the schedule could not be so arranged, to which I counterreplied that a date certain, September 8, had been given for one piece of legislation, product liability. At least in my opinion, health care is more important than product liability.

So I say that by way of a background, that I hope we will be able to move to the substance of health care and get on with our business of representing the American people. It is imperative that affordable health care for all Americans be provided.

As to Senator ROCKEFELLER's comments, there was a press conference yesterday - attended by a number of Senators from the Democratic Party. During the course of that press conference, on three occasions, the Senator from West Virginia [Mr. ROCKEFELLER] made some inappropriate statements, which I will quote directly. This is from the transcript of the C–SPAN news conference:

> There are Republicans who would be glad to sign on to what we have done, but are being precluded from doing so by the White House just as they were told to vote against the Pepper Commission by OMB, and by John Sununu directly.

I take strong exception to that, Mr. President, because this Republican Senator is not precluded from doing anything by any direction from the White House, or John Sununu, or anyone else.

Later on in that same news conference in response to a question:

> Do you have the votes to pass for—?
>
> Senator ROCKEFELLER. Yes, you have to have in this business—and you know perfectly well you have to have 60 votes.
>
> Question. Do you?
>
> Senator ROCKEFELLER. We have 57 Senators, and no Republican Senator that I know of would be allowed to vote for that.

Again, I take very strong exception to a reference here that, "no Republican Senator that I know of would be allowed to vote for that." We are independent, Mr. President, under article I of the Constitution. Congress was set up first in article I. It was not until article II that the President and the executive branch were set up, and not until article III that the courts were set up.

Then there is a third reference, Mr. President. It comes in the context again on discussion of health care. Senator ROCKEFELLER says:

> There are a lot of Republicans who would agree to one of those approaches, too, but they are not allowed to.

Three times in the course of a very short discourse Senator ROCKEFELLER claimed that Republican Senators were not allowed to do something.

Again, I take very strong exception to that. Senators are independent. We are not told what to do by anyone.

The fact of the matter is, when the question was raised to Senator ROCKEFELLER about whether he had enough votes for cloture, he said he had 57 Democrats. This Senator is prepared to vote for cloture if necessary to bring health care to the fore. I do not care whose health care bill it is; this Senator is prepared to vote for cloture.

I believe that to say that Senators are not allowed to do something directly impugns our independence.

As to the merits of having a health care bill on the floor, this question was posed by one of the news people present.

> QUESTION. Senator Rockefeller, can you tell me when Senator Mitchell's and the Democratic health care bills will come to the floor?
>
> Senator ROCKEFELLER. Well, I understand your point because we are so aggressive and so committed to health care on our side of the aisle that we not only have put out not just a full program for access to health care, but what has not been mentioned here this morning, an entire full program for long-term care. So they're both out there; they're both on the floor; they're both absolutely ready.
>
> Secondly, we are also working to try and further refine, with a tremendous burst of activity which has been going on now for about a month and a half, in which we have been looking, going to our colleagues and trying to meld the approaches that we do have together to make an even more refined proposal.
>
> But the basic point obviously is that we are desperately active on this and that if we had any, any sense of encouragement from the White House, there are Republicans who would be glad to sign on to what we have done, but are being precluded from doing so by the White House just as they were told to vote against the Pepper Commission by OMB and by John Sununu directly.

Many on this side of the aisle have urged that a health care program be brought forward so that we can vote on it. When language is used, "We are so aggressive and so committed"; "A tremendous burst of activity"; and "We are desperately active on this"—I wonder, where is this aggressiveness? Where is this burst of activity? Where is this desperate activity?

Later on the Senator from West Virginia [Mr. ROCKEFELLER] says:

> I mean, we're trying everything we know. But in this town which is a one-man town, one-person town, if you have no indication of any support from the White House you are checkmated on something as complicated as health care reform.

I disagree with that directly and categorically. This is not a one-man town. The Congress of the United States is independent. Leadership can come out of the Congress of the United States and from the Senate. This Senator made that effort last Wednesday by bringing up an amendment on health care, with a willingness to withdraw that amendment if we could get a date certain as to when we would take up health care.

Another Member from the other side of the aisle said:

> "First I learned fast that without a new President, without someone who isn't going

to ridicule, block, and veto fundamental health care reform"

He goes on to say it cannot be done.

The President has not vetoed health care reform. No health care reform has come to the President.

I say to you that it really is specious to make a claim that President Bush is an obstructionist, because no legislation has been submitted to him. What really ought to be done is not all of these protestations about desperate activity and aggressiveness—but national health care ought to come to the floor. I think that if the Senator from West Virginia [Mr. ROCKEFELLER] would offer the legislation that he would find many on the Republican side of the aisle who would be very anxious to join with him. It serves no purpose and I think it just plain inappropriate, to make these repetitive statements that Republican Senators are not allowed to take any course of action.

As I say, the principal reason for my seeking the floor was to voice my strong objection to these comments. I have noted further the absence of any effort by those who control the Senate, the Democratic Party, to bring health care to the floor. Yesterday there was an extensive discussion by the distinguished Senator from Rhode Island [Mr. CHAFEE] who is the leader of the Republican task force. His comments appear in yesterday's RECORD at pages 11443 and 11444, which I shall not repeat, and set out the chronology of efforts made by Republicans to try to move health care legislation along.

I would make one more comment and I would make this in a spirit of suggestion, realizing that people can say whatever they want in our grand, free society with lusty debate.

When the Senator from West Virginia [Mr. ROCKEFELLER] talks about the President and says, "The President talked yesterday in Dalton, GA, using those classic cop out, stupid nationalized socialized medicine words, the same things he used to talk about Medicare back in 1964 and 1965, he says that his health care plan will cover all, that is a lie."

Anybody can say what they like anyplace, especially on the floor of the U.S. Senate. It would be my hope, however, that in our civilized debate, even in a Presidential election year with much at stake, that we would not call each other liars. It is not a lie, it is not an intentional misstatement of fact.

When we use categories like stupid, I would refrain from that kind of language in talking to anyone. The President of the United States does not have more status than anyone else in not being called stupid. I just hope that as we move into the last part of a very acrimonious political season that we would all refrain from using words like "stupid" and "lie." Instead, we should direct our attention to the business of the country; we should not impugn the independence of each other by saying that Senators are not allowed to do something or another; we should recognize the importance of national health insurance, get it listed on this floor and move ahead to a resolution.

In 1990, we had a very technical, complex bill on the floor, the Clean Air Act. Many people said it could not be legislated. When it came to the floor, we worked hard, and we passed a very important bill. We took 10 million tons of sulfur dioxide out of the air, legislated on tailpipe emissions and legislated on industrial pollution.

I think we can do that with health care, Mr. President. We must tackle it as responsible legislators. We should take the initiative in the Senate, send the bill to the President's desk and take the steps to provide affordable health care for all Americans.

I thank the Chair and yield the floor.

Mr. SYMMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1993

The Senate continued with the consideration of the bill.

Mr. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the amendment by Mr. FOWLER this evening, one way or the other, that he be permitted to call up his second amendment—he has a second amendment on the list—and lay it down so the Senate could proceed in the morning at such time as the distinguished majority leader wishes to put the Senate back on this bill. There would be an amendment pending then and the Senate would not be kept waiting for a Senator, any Senator to come call up his amendment. If he has another amendment on the list, he is entitled to call it up at some point. He is agreeable to laying it down tonight and beginning on it tomorrow morning.

So I make the request.

The PRESIDING OFFICER. Is there objection?

Mr. NICKLES. Reserving the right to object, and I shall not object, I just inform the chairman of the committee that I think Senator GORTON was planning on laying down his amendment tonight. I do not know if he would care that much, but I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Would the Senator like to get consent or ask consent that upon the disposition of the second amendment by Mr. FOWLER that Mr. GORTON be recognized to call up his amendment?

Mr. NICKLES. I think that is an excellent idea.

Mr. ADAMS. Reserving the right to object, Mr. President. Are we going to Senator GORTON's amendment tonight after the Fowler amendment? Tomorrow?

Mr. BYRD. No. May I say to my friend from Washington that the distinguished junior Senator from Washington [Mr. GORTON] is on the list which has been agreed to. He has an amendment on the list. So he would be entitled to call up his amendment at some point. I merely made the suggestion that upon the disposition tomorrow of the second amendment, which Mr. FOWLER has——

Mr. ADAMS. That would be tomorrow, Mr. President?

Mr. BYRD. Yes, that Mr. GORTON then be recognized.

Mr. ADAMS. I wanted to be present in the event it was presented. I did not know if it was tonight or tomorrow. I thank the chairman.

Mr. BYRD. I thank my colleague.

Mr. President, as I understand it, the amendment by Mr. GORTON on the list has to do with timber salvage in spotted owl habitat conservation areas.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FOWLER addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia [Mr. FOWLER] is recognized.

AMENDMENT NO. 2901

(Purpose: To reduce funding for timber sales preparation for certain forests in the National Forest System and limit the quantity of timber from the National Forest System that may be sold at less than cost)

Mr. FOWLER. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Georgia [Mr. FOWLER] proposes an amendment numbered 2901.

Mr. FOWLER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 54, line 25, strike "$1,306,077,000" and all that follows through "*Provided*," on page 55, line 5, and insert the following: "$1,271,077,000, to remain available for obligation until September 30, 1994, and including 65 per centum of all monies received during the prior fiscal year as fees collected under the Land and Water Conservation Fund Act of 1965, as amended, in accordance with section 4 of the Act (16 U.S.C. 4601-6a(i)): *Provided*, That not more than $58,216,000 shall be made available for timber sales preparation, except that the amount of funds made available for timber sales preparation for national forests identified as having negative receipts from timber sales in the annual report of the Timber Sale

Program for fiscal year 1992 shall be reduced by $35,000,000, with the reduction to be made on a pro-rata basis based on the quantity of timber sold from each forest in fiscal year 1992: *Provided further*, That the Secretary of Agriculture may not sell at less than cost a quantity of timber located on National Forest System lands that is more than 75 percent of the volume of the timber sold at less than cost for fiscal year 1992: *Provided further*,".

Mr. FOWLER. Mr. President, I am introducing this amendment to the Interior appropriations bill to address the issue of below-cost timber sales on our national forests, our public lands, and restore sound economic and ecological management to our national forest system.

In a time when our citizens are demanding better stewardship of all our natural resources, and particularly our public lands, national forests, at a time when they are demanding fiscal accountability and an end to Government giveaways, the Forest Service's procedures have simply not kept pace with the times. It seems to me it is time we start to bring the Forest Service in line with the level of Government responsibility the American people are demanding in 1992.

This amendment turns the tide against expanding logging operations in our national forests that lose money for the taxpayers. It would begin to impose some reason on the Forest Service roads program that has already bulldozed more than 360,000 miles of logging roads in our national forests. It will begin to reverse the trend of turning forests, our national forests, into mere tree farms, all at a loss to the taxpayers.

Now, the Forest Service admits that more than half of our national forests lose money on the Forest Service-administered timber sales, meaning that woodland resources and wildlife habitats disappear along with taxpayer funds from the Treasury.

When the total cost of road building and bureaucratic overhead are figured in, many more of these timber sales come up losers for the American people economically and ecologically. One study challenging Forest Service figures claims that timber sales in 101 of our national forests generate over $250 million a year in losses for the American taxpayer.

In other words, the American people pay more and end up with less. Most timber sales in our national forests do not cover the Government's cost of producing the timber.

It seems to me it is time for an honest accounting and responsible management of the public trust our national forests represent. That means no more ecological destruction at taxpayer expense. That means timber sales conducted according to sound business practices that do not depend on public subsidies. That means weaning the Government off of this wasteful practice in the majority of our forests.

Mr. President, this amendment provides for a 25-percent reduction in national forest timber sold where cash returns to the Treasury do not cover the cost of growing and selling the timber.

The amendment reduces the Forest Service's National Forest Service budget by $35 million to reflect the reduction in appropriated funds to administer these sales.

I believe this will force the Forest Service to consider the real costs of selling off our public forest lands. It will steer the Forest Service toward sounder management practices. It will get us on the road to eliminating timber sales that cannot be supported by the bottom line in these days of budget deficits, and it will force the Forest Service to begin making the most of our taxpayers' investment in these forest resources.

Ideally, I would like to see the Forest Service at the forefront in the fight to protect our forests from excessive timbering and road building, to assure wildlife diversity and survival of species and, most importantly, to preserve some semblance of this public trust for our future.

I thank the Chair and I yield to my colleague from Idaho.

The PRESIDING OFFICER. The Senator from Idaho [Mr. CRAIG] is recognized.

Mr. CRAIG. I thank the Chair.

Of course, I have to rise in opposition to the amendment of my colleague from Georgia.

A 25-percent reduction in the U.S. Forest Service Timber Sales Program, or a $35 million reduction, one in the same, can be broken down into very clear and important figures for all of us to look at.

I have some degree of understanding and concern for this amendment in that the Forest Service, through its planning process, through the appeals that are underway on myriad forest timber sales, and through a reevaluation of forest practices, has already produced a phenomenal reduction in the sale of timber volume in this country today.

The issue of the spotted owl in Oregon and Washington and northern California has reduced timber sales to such an extent in the Pacific Northwest it is estimated that nationwide it has driven up the cost of a 2,300 square foot home by over $4,000 per home. That is what is going on today before the application of the Fowler amendment.

If my colleague from Georgia were to be successful in his effort to amend this Interior appropriations bill, here are some of the impacts that would occur nationwide.

At a time when our country is struggling economically to come alive again, at a time when this very Senate is talking about the creation of positive economic forces to produce jobs, my colleague from Georgia is suggesting a 27,000 job reduction in forest-related employment, in the actual logging that goes on on our public lands, and associated industry loss; a wage loss of $1.2 billion would occur, $189 million in lost tax revenues, unemployment payments now for those who would not be working—I am sure the Senator from Georgia would want to make sure they were compensated for not working or being put out of work—of about $71.4 million. The figures go on and on. A loss of $489 million in timber program revenues.

Mr. President, it is not just some insignificant reduction in the timber harvest plan of the U.S. Forest Service. It is devastating to the forest products industry and to a major part of the employment base, not just of the Pacific Northwest but of the entirety of the Nation.

Region 1 and region 4 are the regions that make up the State of Idaho. Here is what the Senate bill would currently allow in total millions of board feet harvested annually. Here is the significance of the Fowler reduction.

Let us talk about the region of the country of the chairman of the Interior Subcommittee and the chairman of the full Appropriations Committee. It would be laid to waste by an over 500 million board feet reduction based on the proposal of a below-cost reduction cut of 25 percent or $35 million. That is the kind of impact that can be realized.

Mr. President, let us talk about Idaho—64 percent owned by the Federal Government, my home State. Am I being parochial tonight? You bet I am. That is what I am hired to do around here, to consider the importance to Idaho as it relates to national policy in a State that is 64 percent controlled, owned by the citizens of this country. It eliminates an annual harvest of 750 million board feet, a combination of these two figures.

In the 10 national forests of Idaho, 7,661 direct or indirect jobs would be lost; $323 million in direct income will be lost; $48 million in Federal income taxes generated from Idaho's Federal Timber Program—and the figure gets larger and larger. In other words, we are shooting with real bullets.

This amendment devastates the timber program of U.S. forests. Those are the kinds of impacts that are reality as we deal with this issue.

As I said in my opening remarks, there may have been some value to a consideration of this kind of amendment if we had not already seen, over the last decade, a significant reduction in the overall annual harvest ASQ—allowable sales quantity—based in the forest plans for all of the U.S. forests of this country.

My State is no different. It has experienced those reductions, significantly.

Now that we battled out the issue of the spotted owl and tried to bring balance to that issue, millions that once were buying timber in Oregon and Washington and Northern California now come over into Idaho and Montana and the other part of the watersheds to buy timber and move it back to the coastal mills. The whole of that is a problem.

There is another issue. When you reduce the sales quantities, those private timberlands of the southeast that make up a significant portion of the forest products industry of the southeast their values go up. Not only do their values go up, but the cost of the average home in this country goes up significantly, at a very time when we are trying to get housing starts up, when we are saying to the young men and women of this country: Go out and buy a home; interest rates are low. Become a part of the American dream.

The Senator from Georgia would suggest that he is going to make the American dream much, much more expensive. He is going to take away profits, income from the Federal Government, and he is going to put 24,000 men and women out of work, ask them to go on unemployment, and drive up the cost of that by over $71 million.

My colleagues of the Senate, that is the reality of this amendment.

Mr. President, further, regarding clearcutting on the national forests, clearcutting will be used only under one or more of seven specific circumstances:

First, to establish, maintain, or enhance habitat for threatened or endangered species;

Second, to enhance wildlife habitat or water yield values, or to provide for recreation, scenic vistas, utility lines, road corridors, facility sites, reservoirs, or similar developments;

Third, to rehabilitate lands adversely impacted by events such as fires, windstorms, or insect or disease infestations;

Fourth, to preclude or minimize the occurrence of potentially adverse impacts of insect or disease infestations, windthrow, logging damage, or other factors affecting forest health;

Fifth, to provide for the establishment and growth of desired tree or other vegetative species that are shade intolerant;

Sixth, to rehabilitate poorly stocked stands due to past management practices or natural events; and

Seventh, to meet research needs.

Mr. SYMMS. Will my colleague yield for a question, Mr. President? I thank my colleague. He makes an excellent point.

The question I ask is, is this number in this column not approximately half what it was 10 years ago, in view of all of the other things—the appeals process—that have happened, talking in round figures? But it is substantially reduced from what we used to cut, because I recall very recently we were cutting over 1 billion feet in Idaho, on an annual basis.

We are way down.

Mr. CRAIG. When I came to the U.S. Congress in 1980, Mr. President, this figure was nearly doubled in that decade to what it is today. The employment in Idaho in the forest products industry was 4,000 men and women more than it is today. That is just in the State of Idaho alone.

That is the kind of reduction we have already seen for a variety of reasons, and the kind that I have already mentioned: For environmental reasons; because some of this sale issuance is being appealed; because we are now dealing with buffer zones for riparian areas; because we have become a lot more sensitive to how we harvest and why we harvest.

But those are real numbers.

Of course, the Senator from Georgia would suggest that they be reduced even that much more significantly.

Mr. President, that is why I must strongly oppose this amendment. And recognizing that, Mr. President, I move to lay it on the table.

Mr. SYMMS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. WIRTH. Mr. President, I represent a State which is proud of its national forests, and depends on them for many things. We have an active timber sale program in our national forests, and the vast majority of those sales are, according to the Forest Service, below cost sales.

I support the Fowler amendment. I think it is a good idea, and an idea we have to confront in an era when we have less money to spend to achieve all we need to achieve in managing our natural resources.

We simply can't afford to keep selling timber for less than it costs us to sell it, at a time when our budget for natural resource management is being reduced. If we expect to make any headway in fighting budget deficits, we have to be able to cut programs like this, that sell Federal resources but lose money doing it.

Senator FOWLER'S proposal is a 25-percent reduction in such sales. It is not a ban on below cost timber sales. It is not a gigantic reduction. It does not broaden the definition of "below-cost timber sale" that the Forest Service has used, even though many people believe that the Forest Service definition is a very narrow one.

It is, however, an opportunity we can't allow to pass. We need to wake up to the simple fact that we can't afford an unlimited subsidy of economically untenable timber sales, just because we are the Federal Government. Our line of credit is running out.

In Colorado, we have found that many of these sales not only lose the taxpayer money—they also do more to hurt than help our local economies. The primary values of Colorado's forests are not as tree farms, but as watersheds, wildlife habitat, and places for outdoor recreation. Their major economic value for many of our rural areas, is as settings in which people want to come to live and work, and want to stay.

Bulldozing miles of new logging roads into rugged back country where the trees wouldn't pay for a few yards of roads doesn't help that. It often hurts, because these areas are often important wildlife habitat and important watersheds, areas with erodible soils and steep slopes that, if the truth be told, don't take the hard treatment logging brings them very well.

We're not just talking about jobs in recreation and tourism, although that is a very important part of rural Colorado's economy. We're also talking about attracting businesses and people who have their choice of going anywhere they want to.

Colorado has changed a lot in the last 20 years. Back 20 years ago we had a very different view of the value of our national forests. But now, many of the local communities on the western slope believe very strongly that the quality of their environment is the biggest asset they have, and far more important to a prosperous future than a timber industry.

The Forest Service in our State has been somewhat successful in recognizing that, and moving in that direction. But we need to do more.

Several years ago, President Bush suggested a similar reduction in below cost sales, though it was targeted so that a relative handful of national forests bore virtually all of the impact of the cuts. Some forests would have simply stopped all sales under that plan.

Senator FOWLER's amendment, which would be spread out over the entire of the forest system, and leaves a great deal of discretion with the Forest Service to choose which sales to continue and which to cut back on, is, to his credit, far easier to implement.

I think that is a sensible approach. Cuts in any government program are going to cause some pain. They are going to require some adjustments. But if we can't get past that to cut a program that both loses money, takes a toll on our environment, and hurts many of the most valuable assets of the communities it directly affects, then we won't be able to cut anything at all.

I urge my colleagues to vote for Senator FOWLER's amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Idaho to lay on the table the amendment of the Senator from Georgia.

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On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. BURDICK], the Senator from Arizona [Mr. DECONCINI], the Senator from Tennessee [Mr. GORE], and the Senator from Iowa [Mr. HARKIN], are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. HATCH], is necessarily absent.

I further announce that the Senator from North Carolina [Mr. HELMS], is absent due to illness.

I further announce that, if present and voting, the Senator from Utah [Mr. HATCH], would vote "yea."

The PRESIDING OFFICER (Mr. GRAHAM). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 50, nays 44, as follows:

[Rollcall Vote No. 173 Leg.]

YEAS—50

Baucus	Gorton	Nickles
Bentsen	Gramm	Packwood
Bond	Grassley	Pressler
Brown	Hatfield	Pryor
Bumpers	Heflin	Riegle
Burns	Jeffords	Roth
Chafee	Johnston	Rudman
Coats	Kassebaum	Sanford
Cochran	Kasten	Seymour
Craig	Kohl	Shelby
D'Amato	Levin	Simpson
Danforth	Lott	Stevens
Daschle	Lugar	Symms
Dole	Mack	Thurmond
Domenici	McCain	Wallop
Durenberger	McConnell	Warner
Garn	Murkowski	

NAYS—44

Adams	Ford	Moynihan
Akaka	Fowler	Nunn
Biden	Glenn	Pell
Bingaman	Graham	Reid
Boren	Hollings	Robb
Bradley	Inouye	Rockefeller
Breaux	Kennedy	Sarbanes
Bryan	Kerrey	Sasser
Byrd	Kerry	Simon
Cohen	Lautenberg	Smith
Conrad	Leahy	Specter
Cranston	Lieberman	Wellstone
Dixon	Metzenbaum	Wirth
Dodd	Mikulski	Wofford
Exon	Mitchell	

NOT VOTING—6

Burdick	Gore	Hatch
DeConcini	Harkin	Helms

So the motion to lay on the table the amendment (No. 2901) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. NICKLES. I move to lay that motion on the table. The motion to lay on the table was agreed to.

Mr. FOWLER addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. FORD. May we have order, Mr. President.

The PRESIDING OFFICER. The Senate is not in order.

The Senator from Georgia.

AMENDMENT NO. 2902

(Purpose: To reform the administrative decisionmaking and appeals processes of the Forest Service)

Mr. FOWLER. Mr. President, I send an amendment to the desk.

Mr. President, I want to yield to the chairman, but for those Members who were not here earlier, under the order agreed to by the body, I have sent my amendment to the desk and it will be first under consideration at the time designated when we come in tomorrow morning.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. FOWLER] proposes an amendment numbered 2902.

Mr. FOWLER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . FOREST SERVICE DECISIONMAKING AND APPEALS REFORM.

(a) FOREST SERVICE NOTICE AND COMMENT PROCESS.—

(1) IN GENERAL.—in accordance with this subsection, the Secretary of Agriculture (referred to in this section as the "Secretary"), acting through the Chief of the Forest Service, shall establish a notice and comment process for proposed actions of the Forest Service concerning projects and activities implementing land and resource management plans developed under the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1601 et seq.).

(2) NOTICE.—Prior to proposing an action referred to in paragraph (1), the Secretary shall give notice of the proposed action, and the availability of the action for public comment, by—

(A) promptly mailing relevant information about the proposed action to any person who, in writing, has requested it, and to persons who are known to have participated in the decisionmaking process; and

(B)(i) in the case of an action taken by the Chief of the Forest Service, publishing notice of the action in the Federal Register; or

(ii) in the case of any other action referred to in paragraph (1), publishing notice of the action in a newspaper of general circulation that has previously been identified in the Federal Register as the newspaper in which notice under this paragraph may be published.

(3) COMMENT.—The Secretary shall accept comments on the proposed action that are postmarked or filed within 30 days after publication of the notice in accordance with paragraph (2).

(4) ISSUANCE OF DECISION.—Not later than 21 days after the termination of the comment period in accordance with paragraph (3), the Secretary shall consider the comments received and—

(A) issue a decision on the proposed action (including a discussion of the comments); or

(B)(i) determine that a delay in issuing a decision on the proposed action is necessary because—

(I) an issue raised by a comment requires further environmental analysis; or

(II) the consideration of the comments cannot be completed within the 21 days; and

(ii) give written notice of the delay to all persons who submitted comments.

(b) FOREST SERVICE ADMINISTRATIVE APPEALS PROCESS.—

(1) IN GENERAL.—In accordance with this subsection, the Secretary shall establish an administrative appeals process for the appeal of decisions of the Forest Service concerning projects and activities implementing land and resource management plans developed under the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1601 et seq.). The process shall provide, at a minimum, one level of administrative review.

(2) TIME FOR APPEALS.—A person may seek review of an agency decision described in paragraph (1) by filing an appeal not later than 45 days after the date on which the decision is issued.

(3) AGENCY DECISION.—An appeal under paragraph (2) shall be decided not later than 45 days after the date on which the appeal is filed. If the Secretary fails to decide the appeal within the 45-day period, the decision on which the appeal is based shall be deemed to be final agency action for the purpose of chapter 7 of title 5, United States Code.

(4) AUTOMATIC STAY PENDING APPEAL.—An agency decision described in paragraph (1) shall be stayed beginning on the date the decision is issued and ending—

(A) if no appeal of the decision is filed, 45 days after that date; or

(B) if an appeal of the decision is filed, 30 days after the earlier of—

(i) the disposition by the reviewing office of all appeals of the decision; or

(ii) the end of the 45-day agency review period provided for in paragraph (3).

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. I thank the Chair.

Mr. President, if Senators who have amendments on the list of eligible amendments would show those to the staff on both sides, it would help us to become familiar with the content of the amendments and might expedite matters on tomorrow.

May I say also that on tomorrow we hope that Senators would come to the floor. There will be an amendment by Mr. FOWLER pending. Upon the disposition of his amendment, one way or another, the amendment by Mr. GORTON will be the next amendment.

Following that, I express the hope that Senators would be on the floor and ready to call up their amendments.

I say to Senators that we have been on this bill now since last evening, and there are other matters that have to be transacted. There are two other appropriations bills behind this one, if the majority leader should decide to bring up one or two of those, and he has other matters as well. So we cannot spend too much time on tomorrow.

I say to Senators tonight, those who are here listening, those who will read the RECORD tomorrow morning, and those who will hear by word of mouth, that it will be my intention to move to table amendments if I see a debate is going on too long. We simply cannot tolerate the kind of time that was taken today on the mining amendment, and I use the word "tolerate" in a pejorative sense.

But we have to move on with this bill. I put Senators on friendly notice that it is my intention, and the intention of the distinguished ranking member, to move to table amendments tomorrow after what we consider a reasonable length of time.

And if there is too much tardiness in Senators coming to the floor to call up their amendments, I will give the Senate a 10-minute notice, after which I will move to go to third reading and ask for the yeas and nays on the motion.

I thank all Senators for their courtesy and I yield the floor.

BUMPERS MINING PATENT MORATORIUM

Mr. SYMMS. Mr. President, the general mining law has helped spur America's industrial growth and continues to help U.S. manufacturers keep up with foreign competition. It is based on a simple principle of private property—tenure and access. Without tenure and access, no risk capital will be available.

The reason given for the moratorium on patents given is that this law is a ripoff. That just isn't true. The case just hasn't been made that this law is broken.

Mr. President, the administration is working to fine-tune this law to keep up with modern mining practices. The Bureau of Land Management has new regulations requiring bonding requirements designed to ensure reclamation on all mining operations on BLM lands. BLM Director Cy Jamison has told me that his goal is to require reclamation bonding for all mining activities on Government lands.

Mr. President, these new regulations will be added to the burden on mining companies that exist from myriad costly State and Federal environmental regulations, laws, and permits required for mining operations. The sponsor of this amendment ignores these facts.

Federal and State environmental laws enacted in the past two decades have had a profound effect upon activities under the mining law and provide a good example of the flexibility inherent in the mining law and how it adapts to changing circumstances.

State reclamation statutes typically cover exploration, mining, and reclamation. Permits are usually required before mining starts and an operation reclamation plan must be approved in order to obtain a permit. There are specified reclamation standards, provisions for performance, and reclamation bonds resulting in a comprehensive program of regulation.

The Federal Land Policy Management Act and Forest Organic Act grant the Federal Government more than ample opportunity to require reclamation of mining sites on public lands and such reclamation is being accomplished.

Both the Bureau of Land Management and Forest Service have issued separate sets of comprehensive administrative surface management regulations governing mining activities. These comprehensive regulations impose substantial requirements on anyone attempting to prospect and develop minerals on public lands.

Federal environmental laws governing mining activities include the following: The Clean Air Act; the Clean Water Act and the no-net-loss of wetlands policy; the Resource Conservation and Recovery Act; the Comprehensive Environmental Response, Compensation, and Liability Act; the Toxic Substances Control Act; the Endangered Species Act; and The Archaeological Resources Protection Act.

Also, the National Environmental Policy Act requires the preparation of an environmental impact statement whenever a Federal agency has to take a major action significantly affecting the environment. Generally, the development of a mine will require some Federal permit, license, or right-of-way that will result in the preparation of an environmental impact statement under NEPA.

Now, I don't know what else we can do to stop mining on Government land in this country, but the amendment by the Senator from Arkansas is a good first step. This moratorium would tell American investors to avoid mining. The investor uncertainty alone will lock the West into a very long-term recession.

In closing, Mr. President, I don't believe the mining law is broken. Maybe it can be fine-tuned, but the Bumpers amendment is an irrational way to give the Congress another year to think more about changing this law. I would urge my colleagues to oppose this amendment.

The PRESIDING OFFICER (Mr. GLENN). Who seeks recognition?

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAHAM). Without objection, it is so ordered.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

TODAY'S BOXSCORE OF THE NATIONAL DEBT

Mr. CRAIG. Mr. President, Senator HELMS is in North Carolina recuperating following heart surgery, and he has asked me to submit for the RECORD each day the Senate is in session what the Senator calls the "congressional irresponsibility boxscore."

The information is provided to me by the staff of Senator HELMS. The Senator from North Carolina instituted this daily report on February 26.

The Federal debt run up by the U.S. Congress stood at $3,995,821,754,626.43, as of the close of business on Monday, August 3, 1992.

On a per capita basis, every man, woman, and child owes $15,556.48—thanks to the big spenders in Congress for the past half century. Paying the interest on this massive debt, averaged out, amounts to $1,127.85 per year for each man, woman, and child in America—or, to look at it another way, for each family of four, the tab—to pay the interest alone—comes to $4,511.40 per year.

WASHINGTON REDSKINS IN VIRGINIA

Mr. WARNER. Mr. President, I rise to address issues relative to a proposal to relocate the Super Bowl Champion Washington Redskins from the District of Columbia, across the river to a new stadium complex at the Potomac Yard in Alexandria, VA.

This matter is now before the Congress as a result of an unexpected, unusual action taken by the House of Representatives on the fiscal 1993 appropriations bill for the VA, HUD, and various independent agencies.

Specifically, a provision was included in the House version of this bill which, in effect, would prevent any Federal agency from reviewing, planning, or permitting a stadium being built on this specific site until an environmental impact statement has been prepared and approved by the Environmental Protection Agency.

Numerous concerns about this issue and the ensuing House action led me recently to contact certain of my Senate colleagues on the Appropriations Committee and ask that the Senate bill not contain a provision, at this time, on the question of an environmental impact statement for the proposed stadium site. Let the Senate remain silent for the moment.

I would like briefly to outline those concerns.

First, I want to make clear that I stand second to no one in my enthusiasm for, and support of, the Redskins team. I congratulate them, once again, on their championship season of last year.

Furthermore, I want to underscore that I, for one, would be delighted and thrilled if circumstances, acceptable to Virginians, were to bring the Redskins to a new home in the Commonwealth of Virginia—already the home, I might add, of Redskins Park near Dulles International Airport.

I must stress, however, that on the subject of a specific site for a proposed new stadium, I am neutral for I, and others, do not have all the facts.

My motivation in preventing inclusion of an environmental impact statement provision in the Senate bill was not pro or con as far as the specific Potomac Yard site is concerned.

Rather, it is essential, it seems to me, that on an issue of this magnitude—in terms of both financial obligation and future economic and environmental impact on our metropolitan area—we keep an open mind until all the facts are known.

I want to avoid a political football game in which a very important decision vitally affecting the future of this area is determined without all the facts. I want to avoid premature congressional action which would effectively foreclose an independent review by the Virginia General Assembly.

I am told that the negotiations between the Commonwealth of Virginia and the Washington Redskins are nearing the final details and are being put in a form that the public and the Senate can review and use to make an informed judgment.

As of today, the available facts are basically limited to framework statements by Gov. L. Douglas Wilder of Virginia and Jack Kent Cooke, owner of the Redskins, and the media interpretations and speculations that followed.

Soon, however—on August 14—the essential information is scheduled to be provided by the principals to appropriate committees of the Virginia General Assembly.

Therefore, I say simply to my colleagues here in the Senate that fairness and rationality dictate that these parties be given time to make public all the facts. Then those opposed have equal opportunity to make known their views. The Senate then has the opportunity to study and analyze all viewpoints, objective merits as well as defects, prior to the House-Senate conference on the VA, HUD, and independent agencies appropriations bill in September. The Senate can then express an informed judgment at that conference. Such a delay will not prejudice the House position. But a rush to judgment today could prejudice others.

In addition, a fundamental threshold question occurs to me about whether a Federal interest can be said to exist at this point with regard to the Potomac Yard proposal.

I say the Congress would best exercise restraint and caution before injecting itself—permaturely and peremptorily—into a controversy among certain Virginia factions, and between officials of two localities in Virginia and the District of Columbia.

Potential points of Federal interest can be evisioned—access to the George Washington National Parkway, funding for expansion of Metro service in support of a stadium, FAA operations at nearby National Airport, and legitimate environmental questions about cleanup of the Potomac Yard Site. But facts on these important questions are still being developed.

But debate—let alone congressional action—at this time, before a full and fair airing of all the facts, hardly ranks above the level of sophisticated speculation.

In addition, plans for an analysis of the existing environmental conditions are underway. The Environmental Protection Agency is currently negotiating a consent decree with RF&P Railroad, the responsible party. My action at this time not to impose a legislative mandate for an environmental impact statement does not preclude the possibility that one may be required as this process moves forward. Current Federal law requires that should the stadium proposal involve a major Federal action, an environmental impact statement will be performed.

And so again, I say that fairness to all parties, fairness to the Senate, compels a reasonable delay.

I am not prepared—nor do I believe the Senate should consider itself prepared—to pass judgment at this time on the merits and substance of the stadium proposal, or on whether congressional action is appropriate.

I purposely restricted my actions to procedural steps not to take a position for or against the Potomac Yard proposal at this time.

On the morning of July 30, following House action, I contacted the chairman and ranking members of the Subcommittee on the Veterans' Administration, HUD, and Independent Agencies. They concurred in my request that language requiring an EIS for Potomac Yard not be included in the Senate bill at this time.

Later that day, Governor Wilder called me and I informed him of my actions. That call was the first contact I had had with the Governor on the stadium issue.

I have had no contact with Jack Kent Cooke or anyone affiliated with the Redskins organization regarding the Potomac Yard site.

I have taken these procedural steps on my own initiative, out of a sense of fairness to all parties and the Senate.

This is a procedural step which assures fairness to all.

I ask, Mr. President, that three editorials addressing this subject be printed in the RECORD at this point.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Richmond Times-Dispatch, Aug. 1, 1992]

IN BRIEF

Applause, please, for Senator John Warner. He evidently has stalled or even derailed Alexandria Congressman James Moran's attempt to inject Congress into the debate over the proposed Jack Kent Cooke Stadium at Potomac Yard. Although the project would have to get clearance from the Environmental Protection Agency, it is essentially a state and local matter. Congress isn't a "super town council."

[From the Richmond Times-Dispatch, Aug. 4, 1992]

WAITING GAME

Here's a revolutionary idea for Alexandria Congressman James Moran and others tempted to go to extremes to block the proposed Jack Kent Cooke Stadium at Potomac Yard: Wait.

Wait until the facts are in before deciding whether to support or oppose the project.

Before the details of the deal were released, Moran announced his opposition. Not content to let the pros and antis fight it out in Virginia's General Assembly, he tried to propel through Congress legislation that effectively would have spiked the stadium. Thanks to the good work of Senator John Warner, the power grab was derailed—at least for now. Other naysayers have acted with Moranic precipitousness.

Troubling questions about the stadium remain. The burden of proof rests with Governor Wilder and Jack Kent Cooke. The responsibility for making a persuasive case is theirs. In public policy, skepticism is a virtue—and this is not the time for a definitive Yes or a definitive No. When Governor Wilder dots the "i's" and crosses the "t's"—and when he calls the General Assembly into a special stadium session—then the time for a decision will have arrived.

[From the Charlottesville Daily Progress, Aug. 2, 1992]

REDSKINS ARE NO BUSINESS OF CONGRESS

Congressional efforts to stop the Redskins from moving out of D.C. may have an unintended effect: showing voters just how petty legislators can be.

Virginians' objections to the proposed relocation of the football team stem from the way the deal was developed. Gov. L. Douglas Wilder's highhanded, secret negotiation came at the expense of Alexandria, where the new stadium is proposed to go. Alexandria so far has had no say-so in the stadium decision. Alexandria did, however, painstakingly work out a zoning plan for the proposed site; that plan said the area was better suited for offices and homes.

Now, as if things weren't complicated enough, Congress has gotten into the act.

The House last week passed legislation calling for an environmental impact study on the stadium site. Sen. John Warner, however, persuaded a colleague not to insert similar language in a Senate bill, thus ensuring at least a cooling-off period on the issue.

That angered Rep. James P. Moran, the Northern Virginia Democrat who offered the House version of the legislation.

"The congressman has said that he basically expects this [law] to stop the stadium," an aide said. "Most environmental impact statements take two to five years."

Now, that's being frank. Mr. Moran's sponsorship of the legislation is based less on environmental concerns than on an obvious desire to please the Alexandria voters in his district.

He says that the site could be contaminated with hazardous chemicals such as lead, arsenic and PCBs. If so, an environmental impact study should be done—regardless of whether the site is used for a stadium or for

offices. And procedures already exist to make sure that happens.

Mr. Moran even admits that "environmental impact statements are required for stadiums or any other large-scale projects of that type." If so, an environmental impact study will be done—regardless of whether individual congressmen and women favor the stadium.

So if procedures and regulations already exist for initiating such a study, why involve Congress? Why should the nation's top legislators make this decision for Virginia?

Minority Whip Newt Gingrich had it right when he called the Moran legislation an "outrageous [attempt] to drag a neighborhood fight to the U.S. Congress."

"This is about whether we are a national congress or a city council for the Washington area," he said.

Virginians are angry about the way the governor went over their heads in negotiating a deal, Ironically, Congress is doing virtually the same thing in trying to reverse the arrangement, Even though the results may be to Alexandria's benefit, the methods are highhanded and arbitrary.

The governor makes a deal, the Congress trumps him. . . . If this one-unmanship goes on, next we'll have the president involved.

D.C. MAYOR TOO UNINVOLVED

Whatever you think about the stadium deal, you gotta hand it to Gov. L. Douglas Wilder for pulling it off.

Mr. Wilder knew just what to do and was willing to do it—personally. Mr. Wilder adroitly stroked Redskins owner Jack Kent Cooke's ego, promised him some financial concessions and, lo, the bargain was made.

By contrast, D.C. Mayor Sharon Pratt Kelly has been unwilling to meet personally with Mr. Cooke. Her early reluctance to do so has been cited as one of the reasons he went looking for stadium property outside the District. Even at this stage of the game, she has assigned stadium negotiations to a subordinate.

Mr. Cooke wants to be treated with the adulation due a bowl-winning quarterback. Fine. A little pandering to the ego is cheap compared to losing a national football team.

AMERICAN RELATIONS WITH VIETNAM

Mr. PELL. Mr. President, I have recently received an excellent article written by a former staff member of the Senate Foreign Relations Committee, Dr. Henry J. Kenny.

Dr. Kenny's article, "American Interests and Normalization With Vietnam," appeared in the summer issue of the Aspen Quarterly. Dr. Kenny's interest in Vietnam is both professional and personal. A West Point graduate, Dr. Kenny was severely wounded while serving with the Green Berets in Vietnam.

At a time in which the debate on Vietnam continues to be heated, Dr. Kenny brings both compassion and well-reasoned analysis to the issue of our future relations.

I commend his article to my colleagues for their reading and ask that it be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AMERICAN INTERESTS AND NORMALIZATION WITH VIETNAM

(By Henry J. Kenny)

"The men with whom I talked were strong and serious. I told them that I regretted more than they would ever know the necessity of ordering them to Vietnam. I remember vividly my conversation with one soldier. I asked him if he had been to Vietnam before. He said: 'Yes, sir, three times.' I asked if he was married. He said: 'Yes, sir.' Did he have any children? 'Yes, sir, one.' 'Boy or girl?' 'A boy, sir.' How old is he? 'He was born yesterday morning, sir' he said quietly. It tore my heart out to send back to combat a man whose first son had just been born."—Lyndon B. Johnson at Ft. Bragg, N.C., 1968.

Twenty-five years ago American forces were locked in mortal combat with North Vietnamese infantry across the length and breadth of South Vietnam. The Tet (New Year's) offensive of 1968 was about to begin, and before it was over, 500 young men a week would be returning home in coffins, hospitals would be overflowing with amputees, burn victims, paraplegics, the blind and others, public opinion would turn decisively against the war, President Lyndon Johnson would declare he would not seek another term, and Richard Nixon would campaign for the presidency with a plan to bring the boys home and end the war. It took another five years and twice the number of names which would be inscribed on the black granite wall of the Vietnam Memorial in Washington, D.C., before that end was accomplished, and two additional years before the last American helicopter departed the abandoned American Embassy in Saigon. The world has turned over many times since those dark days of frustration and pain. The generation which fought the war has grown to middle age, while the generation which succeeds it has heard of Vietnam only as a difficult war, and like the average American of the early 1960s, is not quite sure where to locate it on the map. Yet despite the passage of so many years, the United States has yet to normalize relations with its former enemy. It is time, in 1992, to take that step, both because it serves a broad range of continuing American interests in Indochina, and because it best embodies the values for which so many Americans paid the ultimate sacrifice a generation ago.

BACKGROUND

Recognition of Hanoi had been considered as far back as 1946, but support for France in what was perceived as a Cold War confrontation in Indochina obstructed the action. Two wars and 32 years later Washington again pursued the possibility, but any prospect for normalization vanished when Vietnam invaded Cambodia in later 1978 and installed a loyal government in Phnom Penh. Hanoi declared the move necessary to defend Vietnamese border villages from Khmer Rouge attack, and later justified its actions as necessary to prevent Khmer Rouge genocide inside Cambodia. Washington saw it as Vietnamese expansionism, not unlike the occupation of Cambodia by the Nguyen dynasty during the 18th century, and fed by Vietnamese visions of hegemony in Indochina as reflected in Ho Chi Minh's last will and testament. This dichotomy of views persisted for over a decade, a legacy of mistrust characterized the relationship, and diplomatic recognition appeared extremely remote.

Then, in the spring of 1988, Vietnam clearly signaled that it not only desired normalization, but was prepared to take major steps to attain it. First, it directed the People's Army of Vietnam to begin withdrawing from Cambodia, and in September the following year announced that all its troops, once numbering more than 180,000, had left the country. Second, it started returning the remains of American servicemen in unprecedented numbers, and began allowing American inspectors to visit aircraft crash sites. Finally, it declared liberal economic policies and encouraged a dramatic rise in trade with Western countries.

The Bush administration inherited both the challenge of how to respond to Hanoi's initiative and the fact that normalization had taken on overtones far more significant than the traditional recognition of governments as having *de facto* or *de jure* control over their own population and territory. Although not generally constituting approval of the policies and practices of the regime to which it is extended, diplomatic recognition in the Vietnam context has been viewed as a reward for accommodating U.S. interests, a *quid pro quo* for concessions from an erstwhile enemy. The administration thus required that Vietnam not only withdraw from Cambodia, but cooperate in helping settle the civil war there. It also strengthened MIA policy, stating that the pace and scope of normalization will be dependent upon, not just related to, progress in accounting for missing Americans. These two interests, Cambodia and MIAs, presently dominate Washington's agenda for relations with Hanoi, and were highlighted in the "road map" of phased normalization presented to Vietnam in 1991.

Although never central to American participation in the Vietnam war, Cambodia was and is part of the greater struggle for Indochina, in which the best of American intentions has been to support independent states free from both external domination and internal tyranny. U.S. policy toward Cambodia today reflects this goal, seeking both to prevent Vietnamese domination and to ensure as democratic a political process as possible in that war-torn land. The road map thus specified that a cease-fire (begun May 1, 1991), an international accord (signed October 23, 1991), and a U.N. presence (formally begun March 15, 1992) precede a partial lifting of the trade embargo on Vietnam (a telecommunications accord signed April 15, 1992, and commercial sales of food and medicine "to meet basic human needs" authorized April 29, 1992). Ironically, the very success of U.S. policy to date is clear evidence that Vietnam is not impeding the peace process, and that the time is at hand to ask whether normalization with Vietnam would not expedite, rather than delay, in Southeast Asia the winds of change which have already transformed Eastern Europe and the former Soviet Union.

A similar irony pertains to Americans missing in action (MIAs). The nearly 2,300 men who did not return from the war fought for ideals of freedom and justice, however misconstrued at times in the breach of American policy and strategy. Their sacrifice, like those of their comrades-in-arms, calls for not only as full an accounting as possible, but also a national policy to maximize the opportunity for peace and freedom in the land from which they never returned. Present policy has outlived its utility in this regard. First, it delays entry into Vietnam not just of diplomats but of American citizens who would live there to conduct business. Information on MIAs, as on any other issue, cannot be damaged by an increased U.S. presence. Second, postponing normalization deprives Hanoi of an incentive to co-

operate in what has become a clear linkage between political relations and MIA gestures. Finally, the continued isolation of Vietnam prolongs inevitable political change, which could lead not only to the fullest possible MIA accounting but also to increased freedoms for which the MIAs paid such a dear price.

A third U.S. interest, that of American business, was mentioned in the road map, but was treated primarily as an enticement for Vietnam to act on the Cambodian and MIA issues. With an increasing number of foreign companies positioning themselves for long-term gains in Vietnam, American firms are seeking to overcome their competitive disadvantage by advocating that the government lift restrictions on non-strategic trade and investment. Individual CEOs, however, remain reluctant to press the issue for fear of being "out front" while concern for Cambodia and MIAs remains intense.

A fourth American interest, humanitarian concern for the people of Vietnam, has received even less attention. While U.S. policy maintains that humanitarian issues are important in the context of normalization, it refers to such interests primarily in terms of special categories of persons, such as reeducation camp prisoners, Amerasians and MIAs. Neither the administration nor the Congress has focused on the impoverished and repressed condition of the people of Vietman, yet it was in their name that America sacrificed more than 59,000 servicemen in 13 years of war. Washington is now attempting to reinforce their isolation by barring them from Western products and ideas, thereby postponing the information revolution so crucial to the social change witnessed elsewhere in the world.

It is to the issue of normalization and its relationship to these four interests—Cambodia, MIAs, American business and humanitarian concern for the people of Vietnam—that we now turn.

CAMBODIA

In early 1992 Khmer Rouge forces violently attacked villages and government outposts in northern Cambodia, killing more than 100 innocent civilians and adding 20,000 men, women and children to the more than 600,000 displaced persons seeking to be resettled within the next year. The repeated and brutal nature of the attacks demonstrates once again the wisdom of America establishing closer relations with its onetime foe and ardent Khmer Rouge enemy, Vietnam. Initiated under the aegis of General Ta Mok, the notorious Khmer Rouge leader in the north, the attacks bespeak not just possible dissention within the ranks of Khmer Rouge leadership, but a willingness of some Khmer Rouge leaders to pursue military means to expand areas of control, even if that means disrupting the peace process so meticulously planned by the United Nations. In disrupting the U.N. effort, moreover, the Khmer Rouge also effectively disrupted the normalization process between the United States and Vietnam, a process whose fulfillment would threaten Khmer Rouge viability.

The United States and Vietnam share an extremely important goal in Cambodia—to prevent the return to power of the genocidal Khmer Rouge. Khmer Rouge forces are estimated at more than 30,000 hard-core fighters. Although their size and capabilities are consistently denigrated by the Hun Sen government in Phnom Penh, they are by far the best trained, disciplined and experienced of the four Cambodian factions. Their strength in the Cardamom mountains of southwestern Cambodia has gradually extended to the Elephant Range of the south and various base areas in the northeast. From these positions they have threatened the main trade routes with Phnom Penh from Thailand and the port of Kompong Som. They are considered to have sufficient weapons and ammunition for several years of sustained operations and have cached many of them in mined base areas no U.N. inspection team will ever find. Most observers had concluded that in any election Khmer Rouge elements would be soundly defeated, but in recent years the organization has undertaken a massive campaign to reshape its image. Using pictures and the symbolism of the still-popular Sihanouk, Khmer Rouge forces enter villages to propagandize not just by lectures, but by good behavior. They typically pay for any chickens or other food needed, bivouac around local pagodas and portray themselves as the saviors of Khmer nationhood from the Vietnamese and their lackeys in Phnom Penh. Recent reports from Cambodia indicate that these tactics, coupled with selected attacks on government provincial forces, are resulting in a gradual expansion of Khmer Rouge population control in the countryside.

This trend directly impacts America's second major goal in Cambodia, the conduct of free and fair elections for the purpose of a "just and durable settlement of that war." The road map even delays normalization until after a U.S.-supervised election and the seating of a new national assembly in Cambodia. The concept of elections in a country with minimal experience with them has been driven by a desire to promote democracy and protect the non-Communist Sihanoukists and Khmer Peoples National Liberation Front. Fearing not just the return of the Khmer Rouge, but a potential tyranny and surrogate for Vietnamese control in the Hun Sen regime, the United States persuaded the five permanent members of the United Nations Security Council (the Perm Five) to approve a plan for a "comprehensive political settlement" in Cambodia. In late 1990 a draft of this plan, approved by the Security Council and the General Assembly, was agreed upon by the four Cambodian factions as a basis for resolution of their conflict. It called for investiture of national sovereignty in a four-party Supreme National Council (SNC) for an interim period during which a United Nations Transitional Authority for Cambodia (UNTAC) would oversee the functions and activities of governmental administration, supervise a cease-fire and the demobilization of military forces, and organize elections.

Vietnam, however, supported Phnom Penh by raising three objections—that Khmer Rouge genocide was not taken into account, that powers vested in UNTAC infringe upon the sovereignty of Cambodia, and that the disarmament process would compel Phnom Penh to lay down its arms with no guarantee Khmer Rouge forces would not then attack with significant combat capability.

By late 1991 the genocide issue appeared to have been resolved, with Hun Sen having dropped his insistence that the Paris Peace Agreement require a reference to the "genocidal practices of the past," settling instead for an expression of general concern over nonrecurrence of recent practices.

Resolution of the issue of sovereignty was also well advanced; as the 12-member SNC office in Phnom Penh began to function on a regular basis, U.S. and other Western diplomats accredited to the SNC began work. In March 1992 UNTAC was officially established, and by mid-year was well on the way to meeting its goal of 22,000 personnel in country. Phnom Penh concurred in the UNTAC role, limited to supervising only "those functions and activities of the existing administrative structure which could directly influence the holding of free and fair elections in a neutral political environment" (defined as the ministries responsible for foreign affairs, defense, finance, public security and information). Phnom Penh also agreed to the holding of elections under a system of proportional representation by province and a U.N. monitoring force far more substantial than Hun Sen had desired. This flexibility on these two issues, whether interpreted as a product of Vietnamese pressure, acquiescence or simply no influence at all, supports the view that Vietnam is currently not stonewalling the peace process in Cambodia.

The demobilization issue, however, appears more intractable. The Paris Peace Agreement calls for a 70 percent demobilization of each faction's military forces, with 30 percent reporting to cantonment areas under U.N. supervision. However, there is no agreement on the size of forces involved, and a great deal of warranted suspicion that Khmer Rouge elements will merely move into a classic passive guerilla posture, awaiting the opportunity to strike again. Already both Hanoi and Phnom Penh have condemned flagrant Khmer Rouge violations of the cease-fire, and Hanoi is particularly nervous precisely because it was Vietnamese cadres who trained the Khmer Rouge cadre in the methods of guerrilla warfare at Hoa Binh in North Vietnam a generation ago. That training included political warfare in which the caching of arms, recruitment of villagers and the sabotaging of government programs and influence were staples.

Perhaps an even greater worry for Hanoi is its perceived loss of control. Vietnam paid a severe price for its occupation of Cambodia and had planned to leave in place the friendly regime which it installed in 1979. By withdrawing its forces and tolerating elections Hanoi risks permitting the Khmer Rouge to gain a foothold in Phnom Penh, while denying itself the option of future intervention if needed. Party leaders also risk offending a military hierarchy already concerned about severe force cuts, as well as the few hard-liners who still harbor an eschatological vision of hegemony in Indochina. Moreover, the political implications of a next door neighbor ruled by an elected government could be most unsettling. In spite of all these fears, however, Hanoi's acquiescence in a rapidly unfolding peace regime provides the clearest measure of the degree of political risk it is prepared to take to normalize relations with the United States.

The administration seeks to take advantage of Vietnam's needs by linking progress on normalization to full implementation of the Paris Peace Agreement. This is a serious mistake because it provides the Khmer Rouge veto power over not only the peace process, but U.S. relations with Vietnam as well. If one were to accept the Khmer Rouge declaration that is supports the U.N. peace process and is prepared to cooperate in turning in its arms and moving to cantonment areas as prescribed, then there should be no need for Vietnam to interfere in the process and no need to postpone normalization on that account. If, on the other hand, the Khmer Rouge seeks to circumvent the agreement by political and military action, as seems likely from recent indications then the Phnom Penh government will be forced to respond with military action of its own and Vietnam will be tempted to assist as needed. Such was the case in early 1991, when

Khmer Rouge forces forcefully attacked district towns in Battambang province, and select Vietnamese combat units, advisors, intelligence and logistic personnel, estimated to total several thousand, came to the aid of the beleaguered government forces. Such action, done in the absence of normalization, and without U.S. foreknowledge or consent, further aggravated U.S. relations with Vietnam.

Were the United States to normalize relations with Vietnam, however, Khmer Rouge tactics to take advantage of the peace process would suffer in several ways. First, normalization would dramatically increase the international presence in the area. Investors, traders, government representatives, tourists and media attracted by the changed conditions would invariably tend to focus greater international attention on any continued Khmer Rouge truce violations. Second, the economic development bound to accompany an open trading system involving Vietnam and Cambodia would, in the normal course of infrastructure building, improve the livelihood of the average Cambodian who might otherwise be attracted to Khmer Rouge promises. Third, it would serve notice to Khmer Rouge leaders that the wave of the future is in cooperation and development, not in refighting the wars of the past. Finally, it could facilitate bilateral cooperation in the event of flagrant Khmer Rouge violations, thereby serving as a powerful deterrent to subversion of the peace accords by the authors of the Cambodian holocaust. U.S. policy toward Cambodia is based on the twin goals of independence and freedom. Normalization with Vietnam will facilitate attainment of both goals, while simultaneously serving other American interests in Southeast Asia.

POW/MIA

No issue surrounding normalization of relations with Vietnam has captured the imagination of the American people as much as that of missing Americans. Popular movies depicting tortured American servicemen in rat-infested cages, pictures purporting to show live American POWs, the POW/MIA flag as a symbol of patriotism, and Hanoi's political use of the issue both during and after the war, have all pushed the subject to the top of the American agenda with Vietnam. Official government statements saying the pace and scope of normalization will be directly affected by Vietnamese cooperation on the issue really understate its importance, for many Americans believe the MIA/POW issue is the litmus test of the nation's keeping faith with servicemen it sent on a lost crusade.

There are 2,268 Americans who did not return from the war in Vietnam. Because of extraordinary efforts made to account for them, this total is less than 4 percent of those who died in combat, compared to 22 percent in both the Second World War and Korea. Like Korea, the United States did not have access to some of the areas in which many of these men were lost, but in areas of Laos, Cambodia, South Vietnam and to a more limited extent, North Vietnam, unparalleled efforts were made to rescue and account for missing Americans. A massive search-air-rescue effort supported the airmen, who constitute some 80 percent of the missing men. Throughout Indochina more than half of downed airmen were rescued by search-air-rescue operations, often at great risk to the rescuing force. A total of 119 missions to rescue known or suspected American POWs were also reported during the war, including the famous 1970 raid on the Son Tay prison camp in North Vietnam. In addition, American units routinely sought out possible POWs in their operating areas. In 1966, for example, the author helped pursue a captured American advisor, but was successful only in over-running a Viet Cong jungle headquarters where liberated Montagnards described the prisoner as having been led from the camp two months previously, still alive but next to death from malaria and malnutrition. Intelligence collection and analysis was top priority throughout the war. To cite but one example, Intelligence Collection Requirements concerning possible American POWs were promulgated to interrogation centers through which passed some 45,000 captured Viet Cong and North Vietnamese and 226,000 Hoi Chanh ("ralliers" to the Republic of Vietnam). Prepared and updated by the Defense Intelligence Agency, the Intelligence Collection Requirements listed detailed questions to be asked of all sources concerning possible sightings of live American prisoners. Information gathered was thoroughly evaluated, correlated with known information, and used as a basis for determining the status of missing Americans.

The wartime intelligence effort continued after the Paris Peace Agreement. During Operation Homecoming in 1973 nearly 600 American civilians and military personnel returned to the United States. Debriefings of these men revealed a remarkable POW system of memorizing names and information on other Americans, but no hard evidence on prisoners still being held. Then, as hundreds of thousands of Indo-Chinese refugees began arriving at "first asylum" camps in Southeast Asia, announcements were made for them to report any information on captive Americans. Since that time a total of 1,574 live sightings have been reported and examined by the Defense Intelligence Agency. Of this total 69 percent pertained to Americans already accounted for, 25 percent were determined to be fabrications and only 6 percent were unable to be resolved, half of which pertained to reports of Americans in a non-captive environment. The Defense Intelligence Agency states that it will continue to investigate live sighting reports based on the assumption that at least some Americans are held captive, but that as a result of its many years of effort it cannot prove that any Americans have been held prisoner since 1973.

With respect to accounting for missing servicemen, it is significant that some 1,097, or nearly half, are listed as "Killed-in-Action/Body-Not-Recovered," which means they were identified as having been killed in action by their respective services, but due to the circumstances of their loss, it was impossible to recover their remains, even with 500,000 troops in country. Most other MIAs were lost under circumstances which make an accounting extremely difficult. Over half the MIA crash sites are in unknown locations. Hundreds were lost at sea; some were carried away by strong river currents or crashed in triple-canopy jungle. In one case, for example, a Delta Force helicopter crashed in a "known location" amidst triple-canopy jungle after inserting a team at dusk. Nighttime aerial search, in which one very fine young lieutenant gave his life, was followed by extensive ground and air searches, all to no avail. Years later a reconnaissance team accidently stumbled upon the downed helicopter and the remains of four Americans, all in an area where visibility is limited to but a few feet. Despite interruptions, the fact that from 1973 to 1975 the American Joint Casualty Resolution Center launched widespread searches of known crash sites in South Vietnam and was able to recover the remains of but 24 servicemen, further highlights the difficulty. One can only add, as did General Norman Schwartzkopf in the aftermath of Desert Storm, that "in the history of warfare there has never been a successful counting of the dead."

There is little doubt, however, that Hanoi has additional remains and information which it can provide. Forensic evidence shows that numerous American remains returned in recent years have been "off the shelf" or from the warehouse which a Vietnamese mortician reported in 1979. Sixty-two discrepancy cases remain to be resolved from the original list presented to Hanoi by General John Vessey, the President's Representative for POW/MIA Affairs, including some previously listed by the Vietnamese as having died in captivity. Vietnam should also have information on other missing Americans. The United States hopes that the establishment of a POW/MIA office in Hanoi, together with accelerated in-country investigations, including spot searches, will lead to a more expeditious accounting of the MIAs, but neither the families of missing Americans nor the American people should be too sanguine about the prospects. These men have now been missing an average of 25 years and, as the aforementioned facts indicate, Vietnam may have far fewer remains than commonly believed, and may well be husbanding them as a sweetener for a time when trade and normalization are in the offing.

AMERICAN BUSINESS

American firms are missing major opportunities in Vietnam while competitor nation companies have positioned them-selves for substantial and long-term gains in what they view as one of the last untapped high growth areas in the Pacific. Policymakers in Washington have been heard to say this does not make much difference, because Vietnam is lacking in foreign exchange and its disposable income for domestic spending is negligible. Perhaps the Japanese, Koreans, Taiwanese, French and others are missing something; but their current and planned trade and investment in Vietnam indicate otherwise.

American firms are currently proscribed from doing business with Vietnam by the Trading With the Enemy Act. Originally imposed on commerce with North Vietnam in 1964 and South Vietnam in 1975, the embargo is now extended on an annual basis at the discretion of the president. It not only blocks U.S. trade, but impedes that of America's major trading partners, whose governments until recently have generally cooperated with the policy, to include the exclusion of Vietnam from International Monetary Fund and World Bank guarantees and credits. Even had there been no embargo, however, it is doubtful that much business would have been transacted in the decade after 1975, for during that period Hanoi sought to transform the primitive agricultural economy of Vietnam into a modern socialist one "without passing through the stage of capitalism." The notorious X2 campaign to obliterate the last vestiges of capitalism in the South was placed under the leadership of Do Muoi, the current General Secretary of the Communist Party of Viet-nam, who was well known for his admonition, "Capitalists are like sewer rats; whenever one sees them popping up one must smash them to death."

A dozen years later with unemployment well over 20 percent, inflation in triple dig-

its, malnutrition widespread, poverty, ubiquitous, starvation not unknown, and the population apathetic, Hanoi began taking a different approach to capitalists both at home and abroad. Like China, it began on the agricultural front, recognizing the family as the basic unit of production and allowing individual profit. It also guaranteed land tenure on an extended and renewable basis, providing incentive for investment in the land. Going beyond the Chinese model, however, Vietnam eliminated quotas and introduced real price reform so that the individual farmer can now expect to be paid close to the fair market price for whatever he produces. The result has been a significant increase in agricultural production, with rice approaching self-sufficiency in the Red River Delta for the first time in decades, and an annual export volume of close to a million tons from the Mekong Delta. Vietnamese entrepreneurs have been given wide latitude in the industrial sector as well, and owing to their lack of capital and backward technological condition, have increasingly looked to Western business as their best hope.

Thus Hanoi began inviting firms from all around the world to trade with and invest in Vietnam. The results to date have been modest, but not discouraging considering national economic conditions. Since promulgating its 1988 Foreign Investment Law, which offers up to 100 percent foreign ownership of joint ventures, low tax rates, guarantees against expropriation and numerous other incentives, Hanoi has reported approval of more than $3 billion in foreign investments, of which more than a third have resulted in firm contracts. France is the largest foreign investor and is leading an effort to provide bridge loans to extricate Vietnam from arrearages to the IMF and the World Bank. Italy has become a major aid donor, committing $140 million over three years; Australia just initiated a $76 million program of assistance over four years, and Japan is anxious to initiate a far more "substantial" aid program within the year. Taiwan has been particularly active in small business enterprises, with a multitude of investments in fishing, textiles and shipping. Canada recently signed several oil and gas exploration contracts and is planning a $300 million natural gas pipeline in conjunction with Petro Vietnam. Japanese and Dutch firms have done feasibility studies on a $1.2 billion oil refinery, and have indicated their readiness to proceed with the project once the U.S. embargo is lifted.

Although difficult to measure owing to widespread barter and smuggling arrangements, it is now clear that Vietnamese trade with the West has eclipsed that with its former socialist allies. Japan leads the way, with a 1991 two-way trade in excess of $1 billion. More than 2,000 of the 7,000 foreign businessmen visiting Vietnam in 1990 were from Japan, and there are now more than 50 Japanese business offices located in Hanoi and Saigon. With bilateral annual trade approaching $1 billion in 1991, Singapore is a close second, as it rapidly develops its commercial, banking and shipping operations in Vietnam. Former Prime Minister Lee Kuan Yew visited Vietnam in April, while the Thai and Vietnamese prime ministers recently signed a major trade agreement in Bangkok which will more than double their bilateral trade. South Korean trade in 1991 approached $200 million, up from $31 million in 1990, as a South Korean Trade Promotion Office opened a branch in Saigon, with at least eight South Korean companies planning to follow suit. European countries, as well as the European Community, are also well represented.

In view of the trend toward increasing trade and investment in Vietnam, American companies are naturally concerned about missing possible opportunities. Nowhere is this more significant than in the oil and gas industry, which has provided some 60 percent of foreign investment. In 1975 Mobil Oil opened a significant field, known as White Tiger, offshore near Vung Tau, South Vietnam. That field is being exploited by a joint Vietnamese-Russian venture, Vietsovpetrol, which is currently pumping upwards of 112,000 barrels of oil per day. Mobil and other American companies which pioneered energy development in the region are now in the unenviable position of watching as French, British, Soviet, Dutch, Australian and Swedish firms reach agreements on offshore exploration and production, while others, like Mitsubishi Oil Co. of Japan, announce intentions to join the party. Vietnamese oil reserves have been estimated at between 1.5 and 3.0 billion barrels. The rewards for companies in other industries are generally less immediate, owing largely to the lack of capital, infrastructure and technical skills in Vietnam today. Nevertheless, longer-term opportunities in textiles, telecommunications, engineering and construction, agriculture, timber, fishing and handicrafts are considered promising.

Despite its present dearth of capital, Vietnam has the potential to become a major economic force in the region. Unlike China, which appears to many observers to be developing two economies, the entrepreneurial and trading-oriented coastal zone and the backward interior provinces, Vietnam is virtually all within reach of the coast or major rivers leading to the coast. It is located at the hub of one of the most dynamic economic regions in the world, is rich in numerous natural resources, and could become the linchpin for major regional developments such as envisioned in the Mekong Committee Grand Design. It boasts an industrious population, low labor costs and an apparently solid governmental commitment to economic reform. Indeed, as the dwindling state sector of the economy reaches new lows, exacerbated by removal of the Soviet aid life-support system, the dissolution of the Council for Mutual Economic Assistance, the return of more than 200,000 workers from Eastern Europe and the demobilization of some 600,000 soldiers, there appears to be no alternative to capitalism, however labeled, mixed or circumscribed.

While American companies will one day decide for themselves whether the costs and risks of doing business in Vietnam are worth the benefits, the U.S. government must decide what effect removal of the embargo would have on Vietnam itself, especially the budding private sector. Simply put, it has been the experience of American business that the exchange of goods and services does not take place without the exchange of ideas—ideas on how to organize the means of production, to train and motivate workers, to source and develop raw materials, to transport and process those materials, to set up efficient production lines, to build physical and human infrastructure, to integrate the entire production and distribution system in an economic way, and to market successfully. Such exchanges take place from top political and business leaders all the way down to the last worker in a factory, office or farm. They are the ingredients of change, for they affect the minds and pocketbooks of those who would be the future political and economic leaders of Vietnam.

HUMANITARIAN NEEDS

In early 1990, fearing the contamination of Vietnam by events unfolding in Eastern Europe, Hanoi embarked on one of its most extensive campaigns of repression since conquering the South 15 years earlier. Designed to intimidate and punish Vietnamese citizens who challenged in any way the absolute political authority of the Communist Party, the campaign featured massive arrests and threats against anyone seeking to give expression to basic freedoms. Included in the crackdown was the forcible suppression in Saigon of demonstrators against the collapse of credit unions, and of veterans protesting government neglect. In August Hanoi issued Party Directive 135, calling for the arrest of "organizations of individuals who incite opposition to the government and advocate political pluralism." Refugees soon reported that block wardens in Saigon had been instructed to increase their surveillance. Arrests of prominent political, religious and cultural leaders proliferated, highlighted by the arrest of Dr. Nguyen Dan Que, leader of the Movement for Humanism in Vietnam. Dr. Que had erred in publicly calling for democracy and the restoration of traditional Vietnamese human values. During the summer some 5,000 members of the Cao Dai sect in Tay Ninh province were arrested, and dozens of Catholic priests and Protestant ministers were sent to "re-education camps" where hard labor and indoctrination awaited them. By the end of the year an estimated 30,000 people had been arrested. The campaign ebbed in 1991, but the forcible resettlement of untrustworthy elements and selective imprisonment of critics of the government, including Dr. Que, continued into 1992.

While the above human rights problems plague those bold enough to express their independent thinking, a far more widespread human rights abuse burdens the nation. The vast majority of the Vietnamese people have suffered, some since "liberation" and some since the day they were born, from a precarious hand-to-mouth existence with little hope of a better life for themselves or their children. By the late 1980s the physical and psychological scars of war, poverty and repression were visible everywhere. Hyperinflation, unemployment, and in a few cases starvation were the order of the day. Basic commodities were scarce or nonexistent and malnutrition widespread, particularly among children. Cynicism and apathy characterized the work force, leading to the disaffection of intellectuals and Party leaders, such as the prominent journalist Colonel Bui Tin, who called for a "humanist, modern and pluralist socialism where every man is not a passive grain of sand but a twinkling star of creative power with its own peculiar quality that makes up the scintillating firmament."

The government recognized at least two causes of this dilemma. First was economic isolation, which it tried to address by the pullout from Cambodia and increased cooperation on MIAs. Normalization with the United States would, it was hoped, rectify at least the exogenous cause of this catastrophe. Second was the failure of implementing socialist doctrine, which it addressed by freeing the private sector, subject to local party controls. Though limited by a lack of capital and technology, a plethora of small enterprises soon began something the central economy could never do, providing productive jobs for many of the one million Vietnamese coming into the labor pool each year, and making available basic commodities, including food, necessary for that most

basic of all human rights, the sustenance of life itself. The plight of the people is still precarious and their economic liberalization still fragile, but the tolerance for free enterprise, whether done from foresight or out of necessity, is having a fundamental positive effect on the quality of life in Vietnam today.

Party leaders are doing all in their power to ensure this economic liberalization does not translate into political liberalization. Like their Chinese counterparts, they recognize that private enterprise and foreign trade are the only way the country can survive, yet they also see in Beijing's policies since Tienanmen a model for continued political control. In so doing they, like the Chinese leaders they emulate, risk becoming increasingly irrelevant to a dramatically changing society, for while implicitly placing faith in the value of the human spirit unshackled for economic ends, they fail to recognize that the same human spirit, rooted in traditional Vietnamese culture, will be rekindled by the self-respect bound to accompany the escape from the vicious cycle of poverty and war which has been the history of their tragic land for more than 50 years.

Each springtime for four years President Bush has justified extension of Most Favored Nation treatment for China, in large part on the basis that its removal would cause extreme hardship for the people of that nation. No parallel to Vietnam was drawn, but a case could be made that the best intention of American policymakers during the long war years was to help the suffering people of Vietnam toward a better life. A case to the contrary, that the U.S. was never really interested in the Vietnamese people and to a large extent lost the war because of that lack of interest, has also been made. Yet whether America has promises to keep or war wounds to heal, it is clear that normalization of relations will stimulate free enterprise to the benefit of a suffering population, and ensure that humanitarian issues form the central element of future relations with Vietnam.

DIPLOMATIC RECOGNITION

American policy choices on Vietnam have never been easy, and the linking of normalization with American interests in Cambodia and MIA accounting does not make this one any easier. The tendency to involve U.S. business and humanitarian interests is likely to complicate the issue even further. Normalization with Vietnam in this context is thus seen as anything but normal, for on its weak limbs hang major problems whose solutions may take many years.

Present policy is based on the supposition that this does not matter, that time is of no urgency because none of the forgoing American interests in Vietnam can be considered strategic in nature, that Vietnam itself is of minimal economic or political importance to the United States, and that Washington therefore maintains major negotiating advantages. The first postwar articulation of this concept was by then Secretary of State Henry Kissinger, who told a Congressional group not to offer Vietnam anything, but to "wait three years and they will come begging to us." That was in 1975. In 1991 a United States senator implicitly reiterated this point, telling Party leader Do Muoi in Hanoi that Vietnam needs the United States more than the other way around. The premier naturally voiced his disagreement, for he too has pride, as did his predecessor, Premier Pham van Dong, who often repeated, "We do not wish to beg the United States."

The rationale for withholding recognition of Vietnam could be justified were it efficacious, but it is not. Washington's presumed leverage on Hanoi and Hanoi's presumed leverage on Phnom Penh are the operational modes of discussion. The fact is that the United States is the only member of the 18 nations having participated in the Paris Conference on Cambodia which does not have diplomatic relations with Vietnam. The heart of the issue is forcing Vietnam to support the American position in Cambodia by withholding trade, diplomatic recognition and IMF/World Bank financing. The position presumes that the politburo in Hanoi will act in accordance with a rational Western economic model and in the best interests of a people with whom it is increasingly out of contact. But the politburo still places a higher priority on perceived security interests, and for that reason has not supported the normalization road map. The efficaciousness of linking Cambodia to Vietnam is further minimized for yet another reason—the Khmer Rouge will never give up the gun. The organization is led by men with a lifetime dedicated to violence and a philosophy imbued with vengeance. That the leopard has not changed its spots is most recently illustrated by several large-scale Khmer Rouge attacks in Battambang and Kompong Thom provinces, and the murder of numerous Vietnamese to stir up nationalist support. Extensive Khmer Rouge storage of weapons and ammunition since the mid-1980s gives added meaning to Nguyen Van Thieu's parting admonition, "Don't listen to what they say, watch what they do." Hanoi today is powerless to tame the beast which it helped create.

By holding normalization hostage to every detail of the Perm Five plan, the administration is also prejudicing other issues. First, an increasing number of Vietnamese refugees in recent years have left their homes because of economic conditions exacerbated by the embargo. Second, the MIA issue will suffer. General John Vessey has performed magnificently in persuading Hanoi to return the remains of some 115 American servicemen since his first mission in October 1987, but if Hanoi senses that normalization and trade are out of sight, it will again withhold information and remains as it has done in the past. Finally, Vietnam will also turn in frustration and bitterness to America's trading partners for its international economic needs, and judging from the cracks in the dike today, the embargo will not hold nearly as long as the protracted disputes in Cambodia. Although American businessmen are certain to be among the losers in this situation, the people of Vietnam will have lost even more, for the politburo can once again conceal its own economic ineptitude by pointing to the embargo as the major cause of national economic deprivation.

Diplomacy has been described as "the art of convincing without the use of force." While recent history is replete with examples of the failure of diplomacy, it must be admitted that it is difficult to convince any government of anything without diplomats. Certainly there is merit in the increasing contacts between American diplomats and those of Vietnam, whether in Hanoi, New York, Bangkok or elsewhere, but these contacts are no substitute for an embassy. They certainly do nothing to attenuate the misperceptions created by innumerable delegations visiting Vietnam for the first time and fostering unreasonable expectations in Hanoi and a cacophony of policy voices in Washington. Nor have they succeeded in convincing Hanoi to provide as full a MIA accounting as possible. A peaceful and just settlement of the war in Cambodia, an accounting for Americans missing from the war, the introduction of American business and ingenuity into Vietnam, and the humane treatment of Vietnamese citizens—these are all American interests which are not to somehow be abandoned upon normalization. Rather, they are the substance of what an embassy can and should be all about.

Vietnam today is at a crisis point both internally and in relation to the world. It desperately needs relations with the United States, but its leaders are too proud to beg for it, and with good reason may fear that normalization with the world's greatest democracy would expedite societal changes which could threaten their own position. For its part, the United States should cease thinking about Vietnam as a war, and being overly concerned with the leadership in Hanoi, a product of that war. The real needs of Vietnam today and tomorrow are economic and social, and are now just beginning to be addressed by the ingenuity of its own people. The issues may not be vital to U.S. interests but they are no less real. By recognizing Vietnam under conditions of humanitarian concern the U.S. government does not commit itself to material support for the regime in Vietnam. Nor does it give up instruments of influence such as Most Favored Nation treatment and multilateral bank lending. Rather, it makes possible American private support for private Vietnamese efforts to improve their livelihood freer of coercion from above and deprivation from without. In 1992 it is time to acknowledge that Vietnam is an independent nation whose interests, along with those of the United States, will be best served by diplomatic recognition.

CLOTURE VOTE VITIATED—MOTION TO PROCEED TO H.R. 4312

Mr. MITCHELL. Mr. President, I now ask unanimous consent that the cloture vote on the motion to proceed to the bilingual voting rights bill, now scheduled to occur on tomorrow, Thursday, be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIVE AMERICANS LANGUAGES ACT

Mr. MITCHELL. Mr. President. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 569, S. 2044, relating to native American languages; that the committee substitute amendment be adopted; that the bill be deemed read a third time and passed; that the motion to reconsider be laid upon the table; and that any statements relating to this item be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 2044), as amended, was deemed read three times and passed, as follows:

SECTION 1. SHORT TITLE.

This Act, other than section 3, may be cited as the "Native American Languages Act of 1992".

SEC. 2. GRANT PROGRAM.

The Native American Programs Act of 1974 (42 U.S.C. 2991 et seq.) is amended by adding after section 803A the following new section:

"SEC. 803B. GRANT PROGRAM TO ASSURE THE SURVIVAL AND CONTINUING VITALITY OF NATIVE AMERICAN LANGUAGES.

"(a) IN GENERAL.—The Secretary shall award grants to any organization that is—

"(1) eligible for financial assistance under section 803(a); and

"(2) selected pursuant to subsection (c) of this section;

for the purposes of assisting Native Americans in assuring the survival and continuing vitality of their languages.

"(b) IN PARTICULAR.—The specific purposes for which grants awarded under subsection (a) may be used include, but are not limited to—

"(1) The establishment and support of community language programs to bring older and younger Native Americans together to facilitate and encourage the transfer of language skills from one generation to another;

"(2) the establishment of programs to train Native Americans to teach native languages to others or to enable them to serve as interpreters or translators;

"(3) the development, printing, and dissemination of materials to be used for the teaching and enhancement of Native American languages;

"(4) the establishment or support of programs to train Native Americans to produce or participate in television or radio programs to be broadcast in their native languages;

"(5) the compilation, transcription, and analysis of oral testimony to record and preserve Native American languages;

"(6) the purchase of equipment (including audio and video recording equipment, computers, and software) required for the conducting of language programs; and

"(7) if no suitable facility is available, conversion of an existing facility for use in a language program.

"(c) APPLICATIONS.—Grants shall be awarded on the basis of applications that are submitted by any of the entities described in subsection (a) to the Secretary in such form as the Secretary shall prescribe, but the applications shall, at a minimum, include—

"(1) a detailed description of the current status of the language to be addressed, including a description of any existing programs in support of that language;

"(2) a detailed description of the project for which a grant is sought;

"(3) a statement of objectives that are consonant with the purposes of this section; and

"(4) a plan to preserve the products of the language program for the benefit of future generations and other interested persons.

"(d) COLLABORATING ORGANIZATIONS.—

"(1) IN GENERAL.—If a tribal government or other eligible applicant determines that the objectives of its proposed Native American language program would be accomplished more effectively through a partnership with a school, college or university, the applicant may designate such an institution as a collaborating organization.

"(2) BENEFITS.—As a collaborating organization, an institution may become a co-beneficiary of a grant under this Act.

"(3) MATCHING REQUIREMENTS.—Matching requirements may be met by either, or both, the applicant and its collaborating institution.

"(e) LIMITATIONS ON FUNDING.—

"(1) SHARE.—Notwithstanding any other provision of this Act, a grant under this section shall cover not more than 90 percent of the cost of the program that is assisted by the grant. The remaining 10 percent contribution—

"(A) may be in cash or in kind, fairly evaluated, including plant, equipment, or services; and

"(B) may originate from any source (including any Federal agency) other than a program, contract, or grant authorized under this Act.

"(2) DURATION.—A grant under this section may be for up to 3 years.

"(f) ADMINISTRATION.—The Secretary shall administer grants under this section through the Administration for Native Americans.".

SEC. 3. NATIVE AMERICANS EDUCATIONAL ASSISTANCE ACT.

(a) SHORT TITLE.—This section may be cited as the "Native Americans Educational Assistance Act".

(b) AGREEMENT TO CARRY OUT DEMONSTRATION PROJECT.—The Secretary of the Interior is authorized to enter into an agreement with the National Captioning Institute, Inc., for the purpose of carrying out a demonstration project to determine the effectiveness of captioned educational materials as an educational tool in schools operated by the Bureau of Indian Affairs.

(c) REPORT.—Prior to the expiration of the 12-month period following the date of the agreement entered into pursuant to subsection (b), the Secretary of the Interior shall report to the Congress the results of the demonstration project carried out pursuant to such agreement, together with his recommendations.

(d) AUTHORIZATION.—There are authorized to be appropriated such amounts as may be necessary to carry out this section.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

Section 816 of the Native American Programs Act of 1974 (42 U.S.C. 2992d) is amended—

(1) by striking out "sections 803(d) and 803A" each place it appears and inserting in lieu thereof "sections 803(d), 803A, and 803B"; and

(2) by adding at the end the following new subsection:

"(e) There are authorized to be appropriated to carry out the purposes of section 803B, $5,000,000 for fiscal year 1993, and such sums as are necessary for fiscal years 1994, 1995, 1996, and 1997.".

BILL PLACED ON CALENDAR—H.R. 5481

Mr. MITCHELL. Mr. President, I ask unanimous consent that H.R. 5481, the FAA Civil Penalty Administration Assessment Act of 1992, just received from the House, be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Appropriations.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 3:55 p.m., a message from the House of Representatives, delivered by Mr. Jenkins, one of its reading clerks, announced that the House insists upon its amendment to the bill (S. 5) to grant employees family and temporary medical leave under certain circumstances, and for other purposes, disagreed to by the Senate; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Committee on Education and Labor, for consideration of titles I, III, and IV (except section 404) of the Senate bill, and titles I, III, and IV of the House amendment, and modifications committed to conference: Mr. FORD of Michigan, Mr. CLAY, Mr. MILLER of California, Mr. KILDEE, Mr. WILLIAMS, Mr. MARTINEZ, Mr. OWENS of New York, Mr. HAYES of Illinois, Mr. SAWYER, Mr. PAYNE of New Jersey, Mrs. UNSOELD, Mr. WASHINGTON, Mr. SERRANO, Mrs. MINK, Mr. OLVER, Mr. PASTOR, Mr. GOODLING, Mr. PETRI, Mrs. ROUKEMA, Mr. ARMEY, Mr. FAWELL, Mr. BALLENGER, Mr. BARRETT, Mr. BOEHNER, and Mr. EDWARDS of Oklahoma.

From the Committee on Post Office and Civil Service, for consideration of title II of the Senate bill, and title II of the House amendment, and modifications committed to conference: Mr. CLAY, Mrs. SCHROEDER, Ms. OAKAR, Mr. SIKORSKI, Mr. ACKERMAN, Mr. GILMAN, Mr. MYERS of Indiana, and Mrs. MORELLA.

From the Committee on House Administration, for consideration of section 404 of the Senate bill, and title V of the House amendment, and modifications committed to conference: Mr. CLAY, Ms. OAKAR, Mr. GEJDENSON, Mr. THOMAS of California, and Mr. ROBERTS.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 2977) to authorize appropriations for public broadcasting, and for other purposes.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 994. An act to authorize assistance for civil strife, relief, rehabilitation, and reconstruction in Liberia; and

H.R. 3157. An act to provide for the settlement of certain claims under the Alaska Native Claims Settlement Act, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 348. A concurrent resolution to commend the people of the Philippines for successfully conducting peaceful general elections and to congratulate Fidel Ramos for his election to the Presidency of the Philippines.

At 5:05 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House insists upon its amendments to the bill (S. 1671) to

withdraw certain public lands and to otherwise provide for the operation of the Waste Isolation Plant in Eddy County, NM, and for other purposes, disagreed to by the Senate; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Committee on Interior and Insular Affairs, for consideration of the Senate bill, and the House amendment, and modifications committed to conference: Mr. MILLER of California, Mr. VENTO, Mr. KOSTMAYER, Mr. RICHARDSON, Mr. LAROCCO, Mr. YOUNG of Alaska, Mr. RHODES, and Mr. HEFLEY.

From the Committee on Energy and Commerce, for consideration of the Senate bill, and the House amendment, and modifications committed to conference: Mr. DINGELL, Mr. SHARP, Mr. SYNAR, Mr. SWIFT, Mr. BRUCE, Mr. LENT, Mr. MOORHEAD, and Mr. DANNEMEYER.

Except that, solely for consideration of section 9 (a) and (c) of the Senate bill, and section 14 (a) and (b) of the House amendment, Mr. SCHAEFER is appointed in lieu of Mr. DANNEMEYER.

From the Committee on Armed Services, for consideration of the Senate bill, and the House amendment, and modifications committed to conference: Mr. ASPIN, Mr. SPRATT, Mr. SISISKY, Mrs. SCHROEDER, Mrs. LLOYD, Mr. DICKINSON, Mr. SPENCE, and Mr. KYL.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 5487) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1993, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. WHITTEN, Mr. TRAXLER, Mr. MCHUGH, Mr. NATCHER, Mr. DURBIN, Ms. KAPTUR, Mr. PRICE, Mr. MRAZEK, Mr. SMITH of Iowa, Mr. SKEEN, Mr. MYERS of Indiana, Mr. WEBER, MRS. VUCANOVICH, and Mr. MCDADE as managers of the conference on the part of the House.

The message further announced that the House has passed the following bills, each with an amendment, in which it requests the concurrence of the Senator:

S. 1145. An act to amend the Ethics in Government Act of 1978 to remove the limitation on the authorization of appropriations for the Office of Government Ethics; and

S. 1170. An act to convey certain surplus real property located in the Black Hills National Forest to the Black Hills Workshop and Training Center, and for other purposes.

The message also announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 1206. An act to confer jurisdiction on the United States Claims Court with respect to land claims of the Pueblo and Isleta Indian Tribe;

H.R. 1219. An act to designate wilderness, acquire certain valuable inholdings within National Wildlife Refuges and National Park System Units, and for other purposes;

H.R. 2675. An act to amend title 5, United States Code, to provide for the granting of leave to Federal employees wishing to serve as bone-marrow or organ donors, and to allow Federal employees to use sick leave for purposes relating to the adoption of a child;

H.R. 2782. An act to amend the Employee Retirement Income Security Act of 1974 to provide that such act does not preempt certain State laws;

H.R. 3236. An act to improve treatment for veterans exposed to radiation while in military service;

H.R. 3795. An act to amend title 28, United States Code, to establish 3 divisions in the Central Judicial District of California;

H.R. 4310. An act to reauthorize and improve the National Marine Sanctuaries program, and for other purposes;

H.R. 4539. An act to designate the general mail facility of the United States Postal Service in Gulfport, Mississippi, as the "Larkin I. Smith General Mail Facility", and the building of the United States Postal Service in Poplarville, Mississippi, as the "Larkin I. Smith Post Office Building";

H.R. 5397. An act to amend title 46, United States Code, to prohibit abandonment of barges, and for other purposes;

H.R. 5399. An act to amend the United States Commission on Civil Rights Act of 1983 to provide an authorization of appropriations;

H.R. 5453. An act to designate the Central Square facility of the United States Postal Service in Cambridge, Massachusetts, as the "Clifton Merriman Post Office Building";

H.R. 5479. An act to designate the facility of the United States Postal Service located at 1100 Wythe Street in Alexandria, Virginia, as the "Helen Day United States Post Office Building";

H.R. 5481. An act to amend the Federal Aviation Act of 1958 relating to administrative assessment of civil penalties;

H.R. 5491. An act to designate the Department of Veterans Affairs medical center in Marlin, Texas, as the "Thomas T. Connally Department of Veterans Affairs Medical Center";

H.R. 5630. An act to amend the Head Start Act to expand services provided by Head Start programs; to expand the authority of the Secretary of Health and Human Services to reduce the amount of matching funds required to be provided by particular Head Start agencies; to authorize the purchase of Head Start facilities; and for other purposes;

H.R. 5641. An act to amend the Internal Revenue Code of 1986 with respect to the treatment of certain nonprofit organizations providing health benefits, and for other purposes;

H.R. 5642. An act to amend the Internal Revenue Code of 1986 with respect to the treatment of certain property and casualty insurance companies under the minimum tax, and for other purposes;

H.R. 5643. An act to amend the Internal Revenue Code of 1986 with respect to the treatment of certain amounts received by operators of licensed cotton warehouses;

H.R. 5644. An act to provide that certain costs of private foundations in removing hazardous substances shall be treated as qualifying distributions;

H.R. 5647. An act to provide that the special estate tax valuation recapture provisions shall cease to apply after 1992 in the case of property acquired from decedents dying before January 1, 1992;

H.R. 5648. An act to amend the Internal Revenue Code of 1986 to revise the application of the wagering taxes to charitable organizations;

H.R. 5650. An act to amend the Internal Revenue Code of 1986 to allow non-exempt farmer cooperatives to elect patronage-sourced treatment for certain gains and losses, and for other purposes;

H.R. 5652. An act to amend the Internal Revenue Code of 1986 to extend the period for the rollover of gain on the sale of a principal residence for the period the taxpayer has substantial frozen deposits in a financial institution;

H.R. 5655. An act to amend the Internal Revenue Code of 1986 to restore the prior law treatment of corporate reorganizations through the exchange of debt instruments, and for other purposes;

H.R. 5656. An act to amend the Internal Revenue Code of 1986 to exempt services performed by full-time students for seasonal children's camps from Social Security taxes, and for other purposes;

H.R. 5657. An act to amend the Internal Revenue Code of 1986 with respect to the treatment of deposits under certain perpetual insurance policies;

H.R. 5658. An act relating to the tax treatment of certain distributions made by Alaska Native Corporations;

H.R. 5659. An act to permit the simultaneous reduction of interest rates in certain port authority bonds;

H.R. 5660. An act to amend the Internal Revenue Code of 1986 to provide that the conducting of certain games of chance shall not be treated as an unrelated trade or business, and for other purposes;

H.R. 5661. An act to amend the Internal Revenue Code of 1986 to exempt transportation on certain ferries from the excise tax on transportation of passengers by water;

H.R. 5674. An act to clarify the tax treatment of intermodal containers, to revise the tax treatment of small property and casualty insurance companies, and for other purposes;

H.R. 5686. An act to make technical amendments to certain Federal Indian statutes; and

H.J. Res. 507. Joint resolution to approve the extension of nondiscriminatory treatment with respect to the products of the Republic of Albania.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 994. An act to authorize assistance for civil strife, relief, rehabilitation, and reconstruction in Liberia; to the Committee on Foreign Relations.

H.R. 1206. An act to confer jurisdiction on the United States Claims Court with respect to land claims of the Pueblo of Isleta Indian Tribe; to the Committee on the Judiciary.

H.R. 1219. An act to designate wilderness, acquire certain valuable inholdings within National Wildlife Refuges and National Park System Units, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 2675. An act to amend title 5, United States Code, to provide for the granting of leave to Federal employees wishing to serve as bone-marrow or organ donors, and to

allow Federal employees to use sick leave for purposes relating to the adoption of a child; to the Committee on Governmental Affairs.

H.R. 3236. An act to improve treatment for veterans exposed to radiation while in military service; to the Committee on Veterans' Affairs.

H.R. 4310. An act to reauthorize and improve the National Marine Sanctuaries program, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 4539. An act to designate the general mail facility of the United States Postal Service in Gulfport, Mississippi, as the "Larkin I. Smith General Mail Facility," and the building of the United States Postal Service in Poplarville, Mississippi, as the "Larkin I. Smith Post Office Building"; to the Committee on Governmental Affairs.

H.R. 5397. An act to amend title 46, United States Code, to prohibit abandonment of barges, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 5399. An act to amend the United States Commission on Civil Rights Act of 1983 to provide an authorization of appropriations; to the Committee on the Judiciary.

H.R. 5453. An act to designate the Central Square facility of the United States Postal Service in Cambridge, Massachusetts, as the "Clifton Merriman Post Office Building"; to the Committee on Governmental Affairs.

H.R. 5479. An act to designate the facility of the United States Postal Service located at 1100 Wythe Street in Alexandria, Virginia, as the "Helen Day United States Post Office Building"; to the Committee on Governmental Affairs.

H.R. 5491. An act to designate the Department of Veterans Affairs medical center in Marlin, Texas, as the "Thomas T. Connally Department of Veterans Affairs Medical Center"; to the Committee on Veterans' Affairs.

H.R. 5641. An act to amend the Internal Revenue Code of 1986 with respect to the treatment of certain nonprofit organizations providing health benefits, and for other purposes; to the Committee on Finance.

H.R. 5642. An act to amend the Internal Revenue Code of 1986 with respect to the treatment of certain property and casualty insurance companies under the minimum tax, and for other purposes; to the Committee on Finance.

H.R. 5643. An act to amend the Internal Revenue Code of 1986 with respect to the treatment of certain amounts received by operators of licensed cotton warehouses; to the Committee on Finance.

H.R. 5644. An act to provide that certain costs of private foundations in removing hazardous substances shall be treated as qualifying distributions; to the Committee on Finance.

H.R. 5647. An act to provide that the special estate tax valuation recapture provisions shall cease to apply after 1992 in the case of property acquired from decedents dying before January 1, 1982; to the Committee on Finance.

H.R. 5648. An act to amend the Internal Revenue Code of 1986 to revise the application of the wagering taxes to charitable organizations; to the Committee on Finance.

H.R. 5650. An act to amend the Internal Revenue Code of 1986 to allow non-exempt farmer cooperatives to elect patronage-sourced treatment for certain gains and losses, and for other purposes; to the Committee on Finance.

H.R. 5652. An act to amend the Internal Revenue Code of 1986 to extend the period for the rollover of gain on the sale of a principal residence for the period the taxpayer has substantial frozen deposits in a financial institution; to the Committee on Finance.

H.R. 5655. An act to amend the Internal Revenue Code of 1986 to restore the prior law treatment of corporate reorganizations through the exchange of debt instruments, and for other purposes; to the Committee on Finance.

H.R. 5656. An act to amend the Internal Revenue Code of 1986 to exempt services performed by full-time students for seasonal children's camps from social security taxes, and for other purposes; to the Committee on Finance.

H.R. 5657. An act to amend the Internal Revenue Code of 1986 with respect to the treatment of deposits under certain perpetual insurance policies; to the Committee on Finance.

H.R. 5658. An act relating to the tax treatment of certain distributions made by Alaska Native Corporations; to the Committee on Finance.

H.R. 5659. An act to permit the simultaneous reduction of interest rates in certain port authority bonds; to the Committee on Finance.

H.R. 5660. An act to amend the Internal Revenue Code of 1986 to provide that the conducting of certain games of chance shall not be treated as an unrelated trade or business, and for other purposes; to the Committee on Finance.

H.R. 5661. An act to amend the Internal Revenue Code of 1986 to exempt transportation on certain ferries from the excise tax on transportation of passengers by water; to the Committee on Finance.

H.R. 5674. An act to clarify the tax treatment of intermodal containers, to revise the tax treatment of small property and casualty insurance companies, and for other purposes; to the Committee on Finance.

H.R. 5686. An act to make technical amendments to certain Federal Indian statutes; to the Select Committee on Indian Affairs.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 348. A concurrent resolution to commend the people of the Philippines for successfully conducting peaceful general elections and to congratulate Fidel Ramos for his election to the Presidency of the Philippines; to the Committee on Foreign Relations.

MEASURES PLACED ON THE CALENDAR

The following bills were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3157. An act to provide for the settlement of certain claims under the Alaska Native Claims Settlement Act, and for other purposes.

H.R. 5481. An act to amend the Federal Aviation Act of 1958 relating to administrative assessment of civil penalties.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, August 5, 1992, he had presented to the President of the United States the following enrolled bills:

S. 959. An act to establish a commission to commemorate the 250th anniversary of the birth of Thomas Jefferson; and

S. 2759. An act to amend the National School Lunch Act and the Child Nutrition Act of 1966 to improve certain nutrition programs, to improve the nutritional health of children, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–3713. A communication from the Secretary of Defense, transmitting, pursuant to law, a report on the 1992 Joint Military Net Assessment; to the Committee on Armed Services.

EC–3714. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the status of certain budget authority proposed for rescission; pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, referred jointly to the Committee on Appropriations, the Committee on the Budget, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Armed Services, the Committee on Banking, Housing, and Urban Affairs, the Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, the Select Committee on Indian Affairs, and the Committee on Labor and Human Resources.

EC–3715. A communication from the Secretary of Commerce, transmitting, pursuant to law, a report on the obligation of appropriations in excess of approved apportionment; to the Committee on Appropriations.

EC–3716. A communication from the Acting General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend titles 10 and 37, United States Code, to authorize credit for certain periods of active service performed concurrently as a member of the Senior Reserve Officers' Training Corps; to the Committee on Armed Services.

EC–3717. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report on the waiver of certain provisions of the Trade Act with respect to a transaction with Albania; to the Committee on Banking, Housing, and Urban Affairs.

EC–3718. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on direct spending or receipts legislation; to the Committee on the Budget.

EC–3719. A communication from the Secretary of Transportation, transmitting, pursuant to law, the final report on the results of the study on long-term airport capacity needs; to the Committee on Commerce, Science, and Transportation.

EC–3720. A communication from the Acting Assistant General Counsel of the Department of Energy, transmitting, pursuant to law, notice of a meeting related to the International Energy Program; to the Committee on Energy and Natural Resources.

EC–3721. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC–3722. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC–3723. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC–3724. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC–3725. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC–3726. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CRANSTON, from the Committee on Veterans Affairs, with an amendment in the nature of a substitute:

S. 2512. A bill to amend title 38, United States Code, to establish a program to provide certain housing assistance to homeless veterans, to improve certain other programs that provide such assistance, and for other purposes (Rept. No. 102–361).

By Mr. BENTSEN, from the Committee on Finance, without recommendation with an amendment in the nature of a substitute:

H.R. 5318. A bill regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes.

Mr. BENTSEN. Mr. President, today the Finance Committee reported H.R. 5318, the United States-China Act of 1992, without recommendation and with an amendment to substitute the text of S. 2808, as amended by the Finance Committee, for the text of the House bill. For the information of the Senate, I ask that a section-by-section summary of the bill, as reported by the Finance Committee, and a letter from the Congressional Budget Office stating that the bill would have no budgetary effect be printed in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION SUMMARY OF THE "UNITED STATES-CHINA ACT" (H.R. 5318, AS REPORTED BY THE SENATE COMMITTEE ON FINANCE), TUESDAY, AUGUST 4, 1992

SECTION 1. SHORT TITLE

Section 1 of the bill states the short title of the bill, the "United States-China Act of 1992."

SECTION 2. FINDINGS AND POLICY

Section 2 sets forth certain findings relating to the demonstrations of the Chinese people in pursuit of democratic freedoms, and the actions and policies of the Government of China, that are the reasons for this bill. The findings note that the Government of China continues to violate internationally recognized human rights and deny citizens supporting the pro-democracy movement the right of free emigration. The findings also note that China continues to engage in unfair trade practices and that there are continuing reports of Chinese transfers of missile technology to the Mideast, Africa, and Asia.

Section 2 states that it is the sense of the Congress that the President should take such actions as necessary to achieve the purposes of this bill and that the sanctions being applied against China should be continued and strictly enforced. It also states the sense of the Congress that the President should direct the Secretary of Commerce to consult with members of the U.S. business community operating or investing in China to encourage them to adopt a code of conduct following basic principles of human rights.

SECTION 3. STANDARDS FOR RENEWAL OF MOST-FAVORED-NATION (MFN) STATUS

The President's authority to waive the freedom-of-emigration requirements of section 402 of the Trade Act of 1974 with respect to China, thereby granting China MFN status must be renewed annually through the procedures set forth under section 402(d). Section 402(d) requires the President to submit to Congress, no later than 30 days prior to the expiration of the waiver authority, a document setting forth his reasons for recommending the extension of such authority.

Section 3 of this bill provides that the President may not recommend the continuation of a waiver for China for the 12-month period beginning July 3, 1993, unless the President reports in the document required under section 402(d) that the Government of China has met certain conditions. The President must report that the Government of China (1) has taken appropriate actions to begin adhering to the provisions of the Universal Declaration of Human Rights in China and Tibet, and is fulfilling the commitments made to the Secretary of State in November 1991; (2) has provided an acceptable accounting of citizens detained as a result of the non-violent expression of their political beliefs, and released citizens so detained, to credibly demonstrate a good faith effort to release all those arrested in connection with the June 1989 events in Tiananmen Square; and (3) has taken action to prevent exports of products made by prison labor to the United States.

The bill also requires that the President report that China has made overall significant progress in ceasing religious persecution, unfair trade practices, and adhering to international guidelines on weapons proliferation. The President may not find the latter condition to have been met if China has transferred M–9 or M–11 ballistic missiles or missile launchers to Syria, Pakistan, or Iran, or material for the manufacture of a nuclear explosive device to another country, if such transfer was to be used for the manufacture of such a weapon.

SECTION 4. REPORT BY THE PRESIDENT

Section 4 requires that, if the President recommends in 1993 that the freedom-of-emigration waiver be extended for China, any report regarding that waiver state the extent to which China has complied with the provisions of section 3.

SECTION 5. MFN TREATMENT FOR NONSTATE-OWNED ENTERPRISES

Section 5 provides that, if the President fails to request a waiver because the standards of this bill are not met or if the Congress enacts a resolution disapproving the President's decision to extend China's MFN status, MFN treatment would continue to apply for goods produced or manufactured by a business, corporation, partnership, qualified foreign joint venture, or other person that is not a state-owned enterprise. If such goods are marketed or otherwise exported by a state-owned enterprise of China, however, they would not qualify for MFN treatment.

Section 5 provides that the Secretary of the Treasury shall determine which companies are state-owned enterprises for the purposes of this bill and compile and maintain a list of such companies. For the purpose of making such determinations, the bill provides definitions of the terms "state-owned enterprises," "foreign joint venture," and "qualified foreign joint venture." The bill further provides that any person may petition the Secretary of the Treasury to review the status of a company and its exclusion or inclusion on the state-owned enterprise list.

SECTION 6. SANCTIONS BY OTHER COUNTRIES

Section 6 provides that, if the President decides not to seek a continuation of the waiver in 1993, he shall undertake efforts to ensure that members of the General Agreement on Tariffs and Trade take similar action.

SECTION 7. DEFINITIONS

Section 7 defines certain terms used in the bill.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 4, 1992

Hon. LLOYD BENTSEN,
Chairman, Committee on Finance, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 2808, the United States-China Act of 1992, as amended and ordered on August 4, 1992, by the Senate Committee on Finance. CBO estimates that the bill would have no budgetary effect over the 1992 through 1997 period.

Under the Trade Act of 1974, most-favored-nation (MFN) status may not be conferred on a country with a nonmarket economy if that country maintains restrictive emigration policies. Because of this stipulation, the People's Republic of China does not currently qualify for MFN status. Under present law, however, the President may waive this prohibition on an annual basis if he certifies that granting MFN status would promote freedom of emigration in that country. The People's Republic of China has been granted MFN status on the annual basis beginning in 1980.

S. 2808 would deny the President the authority to recommend continuation of a waiver in 1993 for imported products of state-owned companies unless he reports that the government of China has met specific conditions. The conditions include: adhering to

the provisions of the Universal Declaration of Human Rights in China and Tibet; providing an accounting of the citizens detained, accused, or sentenced as part of the repression of dissent in Tiananmen Square on June 3, 1989; preventing the export of products made by convict, forced, or indentured labor; and making significant progress in ending religious persecution, ceasing unfair trade practices, and controlling weapons proliferation. If the President reports to Congress that he cannot issue the waiver because of China's failure to meet the conditions of the bill or if the President recommends a waiver and Congress passes a joint resolution of disapproval, any goods marketed or exported by a state-owned enterprise would be ineligible for MFN treatment. Goods produced or manufactured by privately-owned enterprises would continue to benefit from MFN treatment. The Department of the Treasury would determine which businesses, corporations, partnerships, companies, and persons would be classified as "state-owned".

The CBO customs duty baseline assumes that China receives MFN status on an annual basis; and, while S. 2808 potentially would affect the ability of the President to extend MFN status, we expect that the President would find that China would comply with the objectives and that he would recommend extension of MFN status in 1993. Therefore, CBO estimates that S. 2808 would have no budgetary impact.

S. 2808 could affect receipts and thus would be subject to pay-as-you-go procedures under Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

PAY-AS-YOU-GO CONSIDERATIONS

[By fiscal year, in millions of dollars]

	1992	1993	1994	1995
Changes in outlays	(1)	(1)	(1)	(1)
Changes in receipts	0	0	0	0

[1] Not applicable.

If you wish further details, please feel free to contact me or your staff may wish to contact John Stell at 226-2720.

Sincerely,

ROBERT D. REISCHAUER,
Director.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources:

Hugo Pomrehn, of California, to be Under Secretary of Energy; and

John J. Easton, Jr., of Vermont, to be an Assistant Secretary of Energy (Domestic and International Energy Policy).

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs:

John H. Miller, of Connecticut, to be a Member of the Board of Directors of the National Institute of Building Sciences for a term expiring September 7, 1992;

Walter Scott Blackburn, of Indiana, to be a Member of the Board of Directors of the National Institute of Building Sciences for a term expiring September 7, 1993;

Virginia Stanley Douglas, of California, to be a Member of the Board of Directors of the National Institute of Building Sciences for a term expiring September 7, 1993;

C.C. Hope, Jr., of North Carolina, to be a Member of the Board of Directors of the Federal Deposit Insurance Corporation for a term expiring February 28, 1993; and

James D. Jameson, of California, to be an Assistant Secretary of Commerce.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. LEVIN (for himself, Mr. COHEN, and Mr. GLENN):

S. 3131. A bill to reauthorize the independent counsel law for an additional 5 years, and for other purposes; to the Committee on Governmental Affairs.

By Mr. D'AMATO (for himself and Mr. MOYNIHAN):

S. 3132. A bill to prohibit land known as the Calverton Pine Barrens, located on Department of Defense land in Long Island, New York, from being disposed of in any way that allows it to be commercially developed; to the Committee on Armed Services.

By Mr. HARKIN (for himself, Mr. CONRAD, Mr. INOUYE, Mr. WOFFORD, Mr. CRANSTON, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. METZENBAUM):

S. 3133. A bill to prohibit the importation of goods produced abroad with child labor, and for other purposes; to the Committee on Finance.

By Mr. KENNEDY (for himself, Mr. COCHRAN, Mr. PELL, Mr. INOUYE, Mr. SIMON, Mr. WELLSTONE, and Mr. DODD):

S. 3134. A bill to expand the production and distribution of educational and instructional video programming and supporting educational materials for preschool and elementary school children as a tool to improve school readiness, to develop and distribute educational and instructional video programming and support materials for parents, child care providers, and educators of young children, to expand services provided by Head Start programs, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. AKAKA:

S. 3135. A bill to amend the Farm Credit Act of 1971 and the Consolidated Farm and Rural Development Act to improve rural homeownership and utilities, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. AKAKA (for himself, Mr. MITCHELL, and Mr. DOLE):

S. Con. Res. 133. A concurrent resolution concerning Israel's recent elections and the upcoming visit by Israeli Prime Minister Yitzhak Rabin to the United States; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEVIN (for himself, Mr. COHEN, and Mr. GLENN):

S. 3131. A bill to reauthorize the independent counsel law for an additional 5 years, and for other purposes; to the Committee on Governmental Affairs.

INDEPENDENT COUNSEL REAUTHORIZATION ACT OF 1992

Mr. LEVIN. Mr. President, today our colleague, BILL COHEN, and I are introducing legislation to reauthorize the independent counsel law.

Born out of the tragedy of Watergate, this law establishes a carefully crafted and constitutionally proven system for appointing independent counsel to handle criminal investigations of persons close to the President.

The law was first enacted in 1978 as part of the Ethics in Government Act. It has been reauthorized twice, in 1982 and 1987, and now we will, hopefully, reauthorize it again before the current authorization expires in December of this year.

As recent news stories have reminded us, this year is the 20th anniversary of the Watergate break-in, and it provides an appropriate backdrop to remember what happened those 20 years ago and why this law is so important.

In 1972 the public was shocked by allegations of criminal misconduct that went to the highest levels of Government, including the White House itself. The public watched open mouthed as top officials resigned, including White House aides Halderman and Ehrlichman and the Attorney General Richard Kleindienst.

When a new Attorney General Elliot Richardson, was nominated, Congress urged him to appoint what was then called a special prosecutor, to get to the truth. He agreed, and he appointed Archibald Cox.

Mr. Cox served at the pleasure of the Attorney General. He had no independent status or protection from reprisal. Early in his investigation he took the necessary step of issuing a subpoena to the White House to obtain records and tapes.

The White House refused to comply. When Mr. Cox persisted, President Nixon ordered Attorney General Richardson to remove him from office. Attorney General Richardson and his deputy resigned instead, but Solicitor General Robert Bork agreed to carry out the President's order. He fired Mr. Cox.

The resulting decimation of the Justice Department was dubbed by the press as the Saturday Night Massacre. It shook to our very foundations this

country's sense of justice and the rule of law. It was this chaos, this blow to the system of justice and the resulting loss of public confidence in Federal criminal investigations of persons close to the President that gave rise to the independent counsel law. In essence, this law authorized the first truly independent Federal prosecutors our country has had to handle criminal cases involving top Government officials.

The process the law established is straightforward. If the Attorney General receives specific information from a credible source about criminal misconduct by the President, Vice President, their Cabinet officers or top campaign officials, the Attorney General must conduct a preliminary investigation of the facts. If he or she concludes that further investigation is warranted, the Attorney General must ask a special court, part of the U.S. Court of Appeals of the District of Columbia, to select a person to serve as the independent counsel in the case.

No independent counsel may be appointed without a specific request from the Attorney General. The counsel's prosecutorial duties are then set by the court, based upon facts supplied by the Attorney General. An independent counsel must comply with Justice Department policies in conducting the investigation and any prosecution, and must operate under the same court scrutiny that applies to all Federal prosecutors. An independent counsel may also be removed from office at any time by the Attorney General for good cause.

In 1988 the Supreme Court upheld the constitutionality of the independent counsel law in virtually every respect. Writing for the 7 to 1 majority, Chief Justice Rehnquist found that the law had been carefully crafted to pass constitutional muster, and that it did no injury either to the President's law enforcement authority or to the principle of separation of powers. The Court found that this law is a reasonable response to the problem posed when an administration is asked to investigate its own top leaders.

The independent counsel law has not only received the backing of the Supreme Court, it has a history of strong bipartisan support in Congress as well. In 1987, the Senate passed the reauthorization bill by a vote of 85 to 10. The House passed it by a vote of 322 to 87. Despite objection from the Justice Department, President Reagan signed the bill into law. In 1982 and 1978, the law enjoyed similar broad margins of approval.

In 14 years of operation, 11 independent counsels have been appointed to office. Of these 11, 7 closed their cases without indictment; 4 have filed indictments which have led to guilty pleas or guilty verdicts from juries and judges. These convictions include the following:

The conviction of Michael Deaver, former deputy chief of staff to President Reagan, who was convicted by a jury of lying under oath about his lobbying activities after he left the White House.

The conviction of Robert McFarlane, former head of the National Security Council, who pled guilty to lying under oath about his knowledge and actions in the Iran-Contra matter.

The conviction of Elliott Abrams, former Assistant Secretary of State, who pled guilty to concealing information about the Iran-Contra matter.

The conviction of Alan Fiers, former CIA official who also pled guilty to lying about the Iran-Contra matter.

The conviction of Thomas Clines, former CIA official; the conviction of Richard Secord, and the conviction of Albert Hakim.

Those are just some of the convictions, and they do not include convictions which were reversed on appeal.

That partial list of convictions is not a trivial one. It is sobering testimony to the value and necessity of a statute authorizing the appointment of independent counsel.

That list is important, not only for what it says about the presence of criminal conduct, even at the highest levels of Government, but also for what it says about the importance of having a criminal justice system in place which the public will trust to make fair decisions.

In its 14 years of operation, decisions by independent counsels, either to indict or not to indict, have been accepted by the public as free from politics.

For example, when Independent Counsel Jacob Stein declined, in 1984, to indict Edwin Meese on a variety of charges involving conflicts of interest, there were no cries of political whitewashing or favoritism. The public accepted the decision. Had the same decision not to indict been made by Mr. Meese's future subordinates at the Justice Department, I doubt that it would have been met with the same level of public trust.

Today, of the 11 independent counsels that have been appointed under the law, two are in office: Judge Arlin Adams, who is handling the HUD scandal, and Judge Lawrence Walsh, who is handling the Iran-Contra matter. Both investigations have already resulted in a number of indictments, guilty pleas and convictions.

Both cases have also been the subject of criticism, primarily because they have taken so long. The HUD independent counsel has been in office for more than 2 years, while the Iran-Contra investigation has been going for more than 5 years.

While we all wish that the wheels of justice would spin faster, there is no evidence that either independent counsel now in office has taken more time than the Justice Department would have taken if it were handling the cases.

Let me just give a few examples to illustrate this point:

The Justice Department's Ill Wind investigation began in 1987 and continues to this day, more than 5 years later. The sentencing of a key figure in that investigation, Melvyn Paisley, took place just last year. Additional indictments, not to mention years of appeal, are still possible in that investigation which has already taken, again, 5 years.

An older example is the Justice Department's investigation of Abscam, a political corruption case that began in 1978 and concluded in 1983, for a total of, again, about 5 years.

The Justice Department's investigation of Manuel Noriega began in 1987 and obtained his conviction in April 1992. That is a total of 5 years so far with possibly years of appeals ahead.

Another case in point is the Justice Department's investigation of Congressman MCDADE which carried on 4 years before an indictment was filed in May of this year. In contrast, at the 4-year mark in the Iran-Contra matter, Independent Counsel Walsh has already obtained 8 convictions, conducted 3 trials and was in the middle of 3 appeals.

Some of the critics of the Independent Counsel Office do not want to look at cases of the Justice Department which have taken as long or longer than the matters under consideration by the independent counsels. What these critics charge instead is that one of the independent counsels, Judge Walsh, just does not know when to quit. They are tired of Iran-Contra. They argue it is time for him to close up shop. But when he took office, Independent Counsel Walsh did not agree to keep working until he was tired of the case. If that were true, I suspect he would have quit a long time ago.

What Judge Walsh agreed to do was to carry out the mandate given to him by the special court based upon the request, by the way, of President Reagan's own Attorney General. It was, after all, Attorney General Meese who requested the independent counsel to investigate criminal wrongdoing in connection with the Iran-Contra matter.

Lawrence Walsh, the independent counsel, is a former judge, former deputy Attorney General of the United States, president of the American Bar Association, New York prosecutor and a lifelong Republican. He agreed to carry out the direction of the court. Whether he is tired or not, he is doing what he was asked to do and committed himself to do.

Of the 14 indictments he's filed in the case, not one has been found insufficient by a court of law. Seven have resulted in guilty pleas, including admissions of guilt by Elliot Abrams and

Alan Fiers, former senior officials in the State Department and CIA. Three indictments have resulted in guilty verdicts after jury trials, of Oliver North, John Poindexter, and Thomas Clines, former top officials in the White House and CIA, although the North and Poindexter convictions were later overturned on issues related to the use of immunized testimony. By the way, the success of both those appeals is in no way the fault of Judge Walsh. They arose from actions taken by Congress to grant partial immunity to North and Poindexter and force them to testify before the public. Congress took a risk when it granted them this immunity, and the criminal process ended up polluted by that public testimony. Judge Walsh warned the Congress what might happen, and urged us not to do what we did.

The trial of another top CIA official, Clair George, is underway in the courts right now and may be decided soon. Two other trials, of CIA official Duane Clarridge and former Secretary of Defense Caspar Weinberger, are scheduled for later this year.

If Mr. Walsh was violating the trust that was placed in him in taking any of these actions, the independent counsel law provides ways to deal with it. The independent counsel law authorizes the Attorney General to dismiss an independent counsel for good cause. While some critics have leveled charges of misspending, of foot dragging, or improper indictments at Judge Walsh, the fact is the Justice Department has not seen fit to act on any of those accusations.

The reason is that Judge Walsh is doing what he was asked to do. He is carrying out the task to which he was assigned.

I cannot help noticing some of the most vociferous critics of the independent counsel are also past targets of independent counsel investigations, people like Elliot Abrams. Mr. Abrams tries to deflect criticism from his own admitted criminal wrongdoing by attacking the independent counsel. But the system that he criticizes, while not perfect, is still the best solution that we have found to the problem of Watergate.

That problem, again, can be simply stated: How to handle the conflict of interest that exists when an Administration is asked to investigate its own top officials for criminal wrongdoing. The independent counsel solution is to rely on a court-appointed individual with meaningful independence from the day-to-day control of the Attorney General, but who ultimately is accountable to that same Attorney General.

In 1988, the Supreme Court said that the law is constitutional and that Congress fundamentally got it right. Senator COHEN and I agree. That is why we are introducing this bill today.

The Independent Counsel Act of 1992 is simple and direct. Our bill does essentially three things: First, it authorizes the independent counsel law for an additional 5 years.

Second, it takes a number of steps to strengthen fiscal controls on independent counsel.

They include requiring independent counsels to act with due regard for expense, to authorize only reasonable expenditures, and to appoint a staff person whose responsibility will be to track expenses. The bill also requires independent counsels to comply with Justice Department policies on spending; requires the General Services Administration to house independent counsels in buildings owned or operated by the Federal Government to avoid commerical rent charges; and directs the Administrative Office of the U.S. Courts to continue providing administrative support and guidance on independent counsel expenditures.

Finally, the bill makes it clear that the independent counsel process may be used by the Attorney General in cases involving Members of Congress.

Most interpret the current independent counsel law to cover Members of Congress under the provision of that existing law which allows the Attorney General to appoint an independent counsel in any case in which the Attorney General determines that there would be a personal, financial, or political conflict of interest.

The Attorney General apparently has some doubt about his ability to apply for an independent counsel in a case against a Member of Congress. To remove any doubt, the section of our new bill would explicitly authorize the Attorney General to use an independent counsel in any case involving a Member of Congress without having to make a conflict of interest determination.

These refinements would not change the basic provisions of the law, but would further strengthen it and clarify it.

On August 11, I have scheduled a hearing before the subcommittee that I chair, and Senator COHEN, the subcommittee's ranking Republican and one of the most knowledgeable Members of this body on the independent counsel law, will also be present and helping to lead the fight to renew this statute.

I thank Senator COHEN for his continuing commitment, not just to this law which he helped father, but for his intellectual integrity and his steadfastness. We need it, because public confidence in Government is at a low point.

Failure to renew the independent counsel law would be a severe blow to the credibility that the public has left in Government. It would return us to the Watergate quagmire in which crimnal investigations of persons close to the President would again be subject to real and perceived conflicts of interest. That is what would happen if we do not renew the independent counsel law. I believe that the Senate will reject that alternative, will maintain its tradition of bipartisan support for the independent counsel law, and mark the 20th anniversary of Watergate with another overwhelming vote to keep the independent counsel statute on the books.

Mr. President, I ask unanimous consent that the text of the bill that we are introducing today and an analysis of it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3131

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Independent Counsel Reauthorization Act of 1992".

SEC. 2. FIVE-YEAR REAUTHORIZATION.

Section 599 of title 28, United States Code, is amended by striking "1987" and inserting in lieu thereof "1992".

SEC. 3. ADDED CONTROLS.

Section 594 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(l) ADMINISTRATIVE AND COST CONTROLS.—

"(1) ADMINISTRATIVE CONTROLS.—The administrative Office of the United States Courts shall provide administrative support and guidance to each independent counsel. The General Services Administration, in consultation with the Administrative Office, shall promptly provide appropriate office space within a Federal building for each independent counsel.

"(2) COST CONTROLS.—

"(A) IN GENERAL.—An independent counsel shall—

"(i) conduct all activities with due regard for expense;

"(ii) authorize only reasonable expenditures; and

"(iii) promptly upon taking office, assign to a specific employee the duty to ensure expenditures are made in accordance with the principles set forth in clauses (i) and (ii).

"(B) DEPARTMENT OF JUSTICE POLICIES.—An independent counsel shall comply with the established policies of the Department of Justice respecting expenditures of funds to conduct investigations and prosecutions, except where such compliance would violate the purposes of this chapter.".

SEC. 4. MEMBERS OF CONGRESS.

Section 591(c) of title 28, United States Code, is amended by—

(1) redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(2) designating the text as paragraph (1) and inserting at the beginning of the text the following: "(1) IN GENERAL.—"; and

(3) adding at the end thereof the following new paragraph:

"(2) MEMBERS OF CONGRESS.—The Attorney General may conduct a preliminary investigation in accordance with section 592 if the Attorney General receives information sufficient to constitute grounds to investigate whether a Member of Congress may have violated any Federal criminal law.".

SEC. 5. EFFECTIVE DATE.

The amendments made by this Act shall take effect on the date of the enactment of this Act.

SECTION-BY-SECTION ANALYSIS OF THE INDEPENDENT COUNSEL REAUTHORIZATION ACT OF 1992

The Independent Counsel Reauthorization Act of 1992 would not make major changes in the law. Essentially, it would reauthorize the law for 5 years, strengthen fiscal and administrative controls on independent counsels, and clarify the Attorney General's authority to use the independent counsel process in a case involving a Member of Congress.

SECTION 1. SHORT TITLE

This section contains the title of the bill.

SECTION 2. FIVE-YEAR REAUTHORIZATION

This section would reauthorize the law for 5 years.

SECTION 3. ADDED CONTROLS

This section would strengthen fiscal and administrative controls on independent counsels by adding a new provision (1) to section 594 of the independent counsel statute.

Subsection (1) would direct the Administrative Office of the U.S. Courts to provide administrative support and guidance to each independent counsel. This provision would codify current practice in which the Administrative Office handles each independent counsel's accounts and provides advice about allowable expenditures.

Subsection (1) would also require the General Services Administration, in consultation with the Administrative Office, to provide office space to each independent counsel within a building owned, operated or under a pre-existing, long-term lease by the federal government. The purpose of this provision is to ensure that independent counsels are housed in federal buildings and do not pay commercial rent or pay for security services that federal buildings already provide.

Subsection (2) would require each independent counsel to "conduct all activities with due regard for expense," "authorize only reasonable expenditures," and appoint a staff person to ensure that expenditures are made in accordance with these principles. It would also require independent counsels to comply with Justice Department policies on spending, except where compliance would violate the purposes of the law.

SECTION 4. MEMBERS OF CONGRESS

Section 4 would clarify the law's application to Members of Congress by adding a new paragraph to section 591(c). Under current law, an Attorney General may appoint an independent counsel in a case involving a Member of Congress if the Attorney General determines that a "personal, financial or political conflict of interest" would apply if the Department of Justice handled the case. The new provision would drop the requirement that the Attorney General find a conflict of interest and explicitly authorize the Attorney General to use the independent counsel process "if the Attorney General receives information sufficient to constitute grounds to investigate whether a Member of Congress may have violated any Federal criminal law."

SECTION 5. EFFECTIVE DATE

This section would make the bill effective on the date of its enactment.

Mr. COHEN. Mr. President, Senator LEVIN took the floor this morning and introduced legislation to reauthorize the independent counsel provisions of the Ethics in Government Act of 1978. As many of my colleagues know, this act will expire unless we take action to reauthorize it.

It has become controversial. In fact, it was born in controversy. The original establishment of the Independent Counsel Act came out of the Watergate experience when Elliot Richardson resigned as Attorney General rather than fire Archibald Cox, a special prosecutor, as it was called at that time, as did Bill Ruckelshaus.

As a result of that experience, we felt in establishing this law in 1978 that the most important objective that needed to be achieved was the reaffirmation of the American people's confidence in the integrity of the judicial system.

Justice is said to be "giving every man and woman his or her due." The power to investigate and to prosecute is the most important, and I suggest the most dangerous, in our democratic system because it involves the power of the Government to take an individual's property, liberty, or, indeed, even life.

It is a great power, and it is subject to great abuse—not only in exercising the power to indict and to prosecute, but conversely in refusing, in some cases, to exercise that power to indict. As a former prosecutor, I will say that the easiest thing for a prosecutor to do is to institute criminal proceedings against an individual. It is not hard to obtain an indictment. The hardest thing to do is to refuse to exercise that power when the evidence is inconclusive or ambiguous.

Now it may be a matter of principle for a prosecutor to refuse to bring the great weight of the Government against an individual. But it also might be a matter of favoritism or privilege. And even where a principled decision is made by a prosecutor, it might not be viewed as such by the public. We know that justice must not only be done, but appear to have been done.

Mr. President, historically the Justice Department has taken this law as an affront, a challenge to its integrity. And I would like to say that, in fact, the law was written to assure the people of this country that they could continue to hold the Justice Department in the highest regard—above suspicion, above doubt, and above criticism.

So this act was written to really insulate the Justice Department against the charge that it had not acted according to the highest principles and traditions of this country.

I might also say that those who have been charged with misdeeds or improprieties have been the beneficiaries of this law. I recall, for example, that Attorney General Meese was alleged to have engaged in a number of improprieties. I also recall that he requested that an independent counsel be appointed to investigate his case. And, in fact, after that investigation Mr. Meese was cleared of those charges of impropriety.

Now I would like to ask any of my colleagues on the left, on the right, Republican, Democrat, conservative, liberal, is there any doubt in anyone's mind that had the Justice Department conducted that investigation of Attorney General Meese and refused to indict or find improprieties that there would have been suspicion cast upon the integrity of that investigation?

And so we have a compelling reason to have a law such as this. It is in need of modification. It has, indeed, been modified on two prior occasions. We expect next week, when Senator LEVIN and I conduct hearings on this matter, to in fact modify it further.

But let me suggest that there is a way to get rid of this law. There is an easy way to obviate the need for an Independent Counsel Act, and that is for future Presidents to stop the practice of appointing friends or political supporters as Attorney General.

The reason that we have to have an independent counsel is because the practice has been so prevalent over the years for Democratic Presidents, Republican Presidents to appoint their personal lawyers, their best friends, their political supporters, even their family members as Attorney General. And so an inherent conflict of interest arises when the highest ranking members of that administration are alleged to have committed criminal acts.

There have been some notable exceptions to this practice in recent years. One occurred when Gerald Ford appointed Mr. Levy of Chicago to serve as Attorney General. No one had any doubts that he was truly independent and not selected because of his political associations.

I would suggest that if we really want to get rid of the Independent Counsel Act, that the Presidents of this country establish the practice of appointing individuals who are highly regarded within the legal profession, who have not been engaged in partisan politics and who, in fact, would be a symbol of true impartiality in the administration of justice. Then there is no need for this particular act.

Until that occurs, I believe there is a compelling interest to reauthorize this act, and I hope that following the hearings next week, we will be able to bring a piece of legislation to the floor that will enjoy the support of both sides of the aisle.

By Mr. D'AMATO (for himself, and Mr. MOYNIHAN):

S. 3132. A bill to prohibit land known as the Calverton Pine Barrens, located on Department of Defense land in Long Island, NY, from being disposed of in any way that allows it to be commercially developed; to the Committee on Armed Services.

CALVERTON PINE BARRENS PRESERVATION ACT

• Mr. D'AMATO. Mr. President, I rise today, along with my friend and colleague Senator MOYNIHAN, to introduce the Calverton Pine Barrens Preserva-

tion Act of 1992. This legislation would protect from commercial development over 3,200 acres of land around the Grumman aircraft testing facility at Calverton in Suffolk County.

This wooded area, surrounding 2,805 acres leased by the Grumman Aerospace Corp. from the U.S. Navy, is situated over a major section of the sole source water supply for 2.3 million Long Islanders. It is also the home of nearly two dozen different threatened or endangered animal species, such as the banded sunfish, the eastern bluebird, the buck moth and the tiger salamander. The Calverton Pine Barrens is also a place where 19 species of rare and endangered plants grow, many of which are found nowhere else in New York State.

The Calverton Pine Barrens is also owned by the Navy but is under the management of the New York State Department of Environmental Conservation [DEC] as a wildlife preserve and recreation area.

Mr. President, in the past the Federal Government floated the idea of selling off this buffer zone around the Grumman facility. It made no sense to allow development, however, in an area surrounding a Navy jet testing facility, and the administration did not pursue the idea.

However, the recent discussion on the possible construction of a commercial jetport facility gives this legislation a heightened sense of importance.

The Calverton Pine Barrens Preservation Act has required that if the Navy were ever to declare it to be no longer needed, the Secretary of the Navy must designate the area a protected tract and therefore off limits to commercial development. If a private owner attempts to develop the land, ownership of the tract would revert back to the United States.

Whatever the future holds for the Calverton facility, we must prevent development that would not only destroy an important environmental resource but might cause dangerous interference with jet flight paths.

Mr. President, I would like to offer my thanks to Congressman GEORGE HOCHBRUECKNER who had introduced an identical bill H.R. 1065 in 1991 and who has been a champion for this important cause.

I note that both State and local government officials, as well as those citizens who are concerned with preserving this ecosystem are in favor of this legislation.

Mr. President, the Calverton Pine Barrens provide clean water, a habitat for rare animals and plants, and an important outdoor recreational area for 15,000 New Yorkers who fish, hunt, and hike in this beautiful area. We must do all we can to preserve this heritage for our children and our children's children.

I urge that my colleagues support Senator MOYNIHAN and me in saving the Calverton Pine Barrens.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3132

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 2. SHORT TITLE.

This Act may be cited as the "Calverton Pine Barrens Preservation Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds as follows:

(1) The Pine Barrens, a forest of pine trees extending across Long Island, New York, protect and replenish the Island's sole-source aquifer and require well-planned protection strategies.

(2) The Department of Defense owns 3234 acres of the Pine Barrens which serve as a buffer zone surrounding the Naval Weapons Industrial Reserve Plant in Calverton, New York, and provide numerous benefits to the public and wildlife.

(3) The General Services Administration has suggested selling portions of the Pine Barrens described in paragraph (2) and under Federal law, such portions could be sold for commercial development.

(4) The New York State Government and local governments have an interest in preserving the Calverton Pine Barrens in its natural state.

(b) PURPOSE.—The purpose of this Act is to ensure that the Calverton Pine Barrens are never commercially developed and that they remain in their natural state in perpetuity.

SEC. 3. CALVERTON PINE BARRENS PROHIBITED FROM BEING COMMERCIALLY DEVELOPED.

In the event that any part of the Calverton Pine Barrens is declared to be excess to the needs of the Department of the Navy, the Secretary of the Navy shall designate that part a protected tract. The protected tract, or any part thereof, may not be disposed of in any way that would allow commercial development to take place on it. If the protected tract, or any part thereof, is ever conveyed to an entity which uses it for commercial development, ownership of the protected tract shall revert to the United States.

SEC. 4. DESCRIPTION OF THE CALVERTON PINE BARRENS.

The Calverton Pine Barrens is the land of not less than 3234 acres located on Department of Defense land surrounding the Naval Weapons Industrial Reserve Plant in Calverton, New York.●

By Mr. HARKIN (for himself, Mr. CONRAD, Mr. INOUYE, Mr. WOFFORD, Mr. CRANSTON, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. METZENBAUM):

S. 3133. A bill to prohibit the importation of goods produced abroad with child labor, and for other purposes; to the Committee on Finance.

CHILD LABOR DETERRENCE ACT

Mr. HARKIN. Mr. President, I rise to introduce the Child Labor Deterrence Act of 1992. This bill would prohibit the importation of any product, made whole or in part, by children under the age of 15 who are employed in industry or mining.

Mr. President, last year when the Senate considered extending fast-track authority for the Mexico Free-Trade Agreement, I noted that there were between 5 to 10 million children illegally employed in Mexico—often in hazardous jobs.

In Mexico, 13-year-old girls have been found working 48 hours a week making electric wiring strips for General Electric in Nogales, making dashboard components for General Motors at the Delnosa plant of Delco, and bags at the Duro Bag Manufacturing Co. in Rio Bravo.

As I stated on the Senate floor, when people ask me what's my bottom line on the Mexican trade agreement—it's simply this: Our country ought not to import any item from any country that is made by child labor, period.

That should be our policy. Mr. President, I am determined to make that our country's policy.

The bill I am introducing today, however, is not only about Mexico and the NAFTA negotiations. It goes beyond that.

The International Labor Organization [ILO] estimates that hundreds of millions of children worldwide under the age of 15 are employed. In many developing countries children represent a substantial portion of the work force and can be found in such industries as glass, metal works, textiles, mining, and fireworks manufacturing.

Many of these children begin working in factories at the age of 6 or 7. They are poor, malnourished, and often work 60 hour weeks for little or no pay.

Their dreams and childhood are being sold for a pittance—to factory owners and in markets around the globe.

Mr. President, whether it is in Bombay or Bangkok, Morocco or Mexico, construction or carpet weaving—no one country nor industry has cornered the market on the economic exploitation of children.

In Indonesia children work in electric light bulb factories, 8 or more hours a day, 6 days a week and make a measly $3 per week.

The ILO reported 1991 estimates that half of the 50,000 children working as bonded labor in the weaving industry in Pakistan will never reach the age of 12—victims of disease and malnutrition.

Conditions are no better in neighboring India where 44 million children under the age of 15 are employed. According to a recent New York Times article, an estimated 300,000 to 1 million children in that country work in the weaving industry—making carpets for 12 to 16 hours a day.

This year India is expected to export 170 million dollars' worth of carpets, 45 percent of which will be imported into the United States.

It is time to end this human tragedy and our participation in it. It is time for greater government and corporate responsibility.

In that regard, Mr. President, last night on the Senate floor we had a debate and a vote on a resolution that had to do with this kind of responsibility. Let me remind the Senators what we voted on last night.

Last night we declared the following:

The Senate supports the concept that corporate America and the officials of all American institutions can and should contribute positively to individual thought and conduct as key contributors to a healthy, responsible society and individual human dignity.

The Senate believes that corporate and institutional entities, their management and stockholders, as well as their advertisers and sponsors, should exercise positive and constructive oversight of their activities without the sole test of their contributions based on profits, sales and publicity.

Mr. President, the Senate further stated when we voted on this resolution last night, and I believe no one voted against it.

The Senate strongly believes that corporate America and the officials of all American institutions weaken the moral fiber of the Nation by hiding behind the faceless mask of such corporations and institutions in a relentless search for profits, sales and publicity without regard to the moral content of their products or their services.

That is what the Senate went on record as saying last night.

Mr. President, what about the morality and the moral content of the items we import into this country made by child labor in other countries,—working 12 to 15 hours a day for very little pay?

Mr. President, I have some photographs which illustrate what I am talking about in this bill. The first photograph is of a young girl believed to be about 12 years of age, working in China, making what is known as a Garfield doll, a little cat, that is sold in this country. Mr. President, this young girl ought to be playing with the Garfield dolls and not working 12 to 15 hours a day making them.

Mr. President, I will be talking more about this when the most-favored-nation status treaty with China comes up in this body.

Here is another photograph. A photo of a young boy, again preteen, in a metal factory in India. He too most likely works long hours, 6 days a week, making little money.

Here is another child, again I do not know the age of this child, obviously preteen, in Malaysia, working in a wood processing plant making wood products, stooped over all day, drilling holes in wood.

We are importing items such as these into the United States.

Mr. President, to echo what the Senate said last night, it is time for us, and it is time for corporate America to quit hiding behind a faceless mask in a relentless search for profit and sales, without regard to the moral content of their products or their services. That is what we are talking about here.

No longer can officials in the Third World and U.S. importers turn a blind eye to the suffering and misery of the world's children. No longer should American consumers provide a market for goods produced by the sweat and the toil of children.

Mr. President, the child labor laws in many countries around the globe are often not enforced. Instead of skipping their way to the classroom and preparing for the future, children are hustled off to factories. These kids belong in school not sweatshops. They should be carrying books to class not bricks to kiln factories.

We should be trying to raise the standard of living in the Third World so we can compete on the quality of our goods not the misery and suffering of those who make them. Our policy toward the Third World should not cause the impoverishment of people—whether they are adults or children. Our policy toward the Third World should promote economic growth with equity and human development because it is in our interest. As their markets expand, so too will American jobs and our exports. Our policy should discourage Third World Countries from sending kids to the assembly line and encourage them to increase their spending on programs for their children, such as primary education.

That is the best way to eliminate child labor, decrease poverty and enhance development in Third World countries—for developing countries to increase their expenditures on primary education.

It was mass education that took children out of textile mills in the United States at the beginning of the century. And, it was the South Korean Government's drive for mass education that took kids out of its once infamous garment sweatshops and led to its economic growth. Today 90 percent of Korean children go to school until the age of 16—a higher ratio than in many developed countries.

Mr. President, I could point to human rights abuses and horrendous working conditions of adult workers in South Korea, but I cannot fault that country of the steps it has taken regarding child labor. It shows that developing countries do not have to wait until poverty is eradicated or they are fully developed before eliminating the economic exploitation of children.

Mr. President, the Child Labor Deterrence Act of 1992 is intended to strengthen existing trade law. The bill directs the U.S. Secretary of Labor to compile and maintain a list of foreign industries and their respective host countries that use child labor in the production of exports.

Once a foreign industry and its host country has been identified as utilizing child labor, the Secretary of the Treasury is directed to prohibit the entry of any manufactured article from that foreign industry.

The entry ban would not apply if U.S. importers can certify that the product from the identified industry and its host country is not made by child labor. U.S. importers would be required to sign certificates of origin to affirm that they took reasonable steps to ensure that products imported from industries, identified by the Secretary of Labor, are not made by child labor.

Further, the bill urges the President of the United States to seek an agreement with other governments to secure an international ban on trade in the products of child labor.

And any company or individual who would willfully or knowingly, bring those products into this country in violation of that law would suffer civil and criminal penalties.

Again, I am not trying to blanket a country. I am not saying that all items, for example, from Malaysia ought to be kept out of this country, nor from China, nor from Mexico. I am saying that those industries that employ child labor making products that are imported here, those products should be kept out of this country. That is what this bill seeks to do.

Mr. President, this legislation would impose no undue burden on U.S. importers. I know of no importer, company or department store that would willingly promote the exploitation of children or want to have their products identified as being the product of child labor. Companies and importers take reasonable steps to ensure the quality of the goods they purchase. They should also be willing to take reasonable steps to ensure that those goods are not produced by child labor.

Mr. President, this legislation is not about trying to impose our standards on the developing world. It's about preventing those manufacturers in the developing world who economically exploit children from imposing their standards on the United States. It's about protecting children and their future. It's about eliminating a major form of child abuse in our world. It's about assisting countries in the developing world to enforce their laws by eliminating the role of the United States in providing a market for foreign products made by underage children and encouraging other nations to do the same.

Mr. President, I am proud to join with Senators CONRAD, WOFFORD, INOUYE, CRANSTON, GRASSLEY, ROCKEFELLER, and METZENBAUM in introducing the Child Labor Deterrence Act of 1992. I urge my colleagues to support this legislation.

Mr. President, I ask unanimous consent that the bill, and the New York Times article that I mentioned be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3133

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Labor Deterrence Act of 1992."

SEC. 2. FINDINGS, PURPOSE, AND POLICY.

(a) FINDINGS.—The Congress finds the following:

(1) Principle 9 of the Declaration of the Rights of the Child proclaimed by the General Assembly of the United Nations on November 20, 1959, states that "...the child shall not be admitted to employment before an appropriate minimum age; he shall in no case be caused or permitted to engage in any occupation or employment which would prejudice his health or education, or interfere with his physical, mental, or moral development...".

(2) Article 2 of the International Labor Convention No. 138 Concerning Minimum Age For Admission to Employment states that, "The minimum age specified in pursuance of paragraph 1 of this article shall not be less than the age of compulsory schooling and, in any case, shall not be less than 15 years.".

(3) According to the International Labor Organization, worldwide an estimated 200,000,000 children under age 15 are working, many of them in dangerous industries like mining and fireworks.

(4) Children under the age 15 constitute approximately 11 percent of the workforce in some Asian countries, 17 percent in parts of Africa, and a reported 12-26 percent in many countries in Latin America.

(5) The number of children under age 15 who are working, and the scale of their suffering, increase every year, despite the existence of more than 20 International Labor Organization conventions on child labor and laws in many countries which purportedly prohibit the employment of under age children.

(6) In many countries, children under the age 15 lack either the legal standing or means to protect themselves from exploitation in the workplace.

(7) The employment of children under the age of 15 commonly deprives the children of the opportunity for basic education and also denies gainful employment to millions of adults.

(8) The employment of children under the age of 15, often at pitifully low wages, undermines the stability of families and ignores the importance of increasing jobs, aggregated demand, and purchasing power among adults as a catalyst to the development of internal markets and the achievement of broad-based, self-reliant economic development in many developing countries.

(9) Adult workers in the United States and other developed countries should not have their jobs imperiled by imports produced by child labor in developing countries.

(b) PURPOSE.—The purpose of this Act is to curtail the employment of children under age 15 in the production of goods for export by—

(1) eliminating the role of the United States in providing a market for foreign products made by underage children; and

(2) encouraging other nations to join in a ban on trade in such products.

SEC. 3. UNITED STATES INITIATIVE TO CURTAIL INTERNATIONAL TRADE IN PRODUCTS OF CHILD LABOR.

In pursuit of the policy set forth in this Act, the President is urged to seek an agreement with governments that conduct trade with the United States for the purpose of securing an international ban on trade in the products of child labor.

SEC. 4. IDENTIFICATION OF FOREIGN INDUSTRIES AND THEIR RESPECTIVE HOST COUNTRIES THAT UTILIZE CHILD LABOR IN EXPORT OF GOODS.

(a) IDENTIFICATION OF INDUSTRIES AND HOST COUNTRIES.—The Secretary of Labor (hereafter in this section referred to as the "Secretary") shall undertake periodic reviews using all available information, including information made available by the International Labor Organization and human rights organizations (the first such review to be undertaken not later than 180 days after the date of the enactment of the Act), to identify any foreign industry and its host country that—

(1) utilize child labor in the export of products; and

(2) has on a continuing basis exported products of child labor to the United States.

(b) PETITIONS REQUESTING IDENTIFICATION.—

(1) FILING.—Any person may file a petition with the Secretary requesting that a particular foreign industry and its host country be identified under subsection (a). The petition must set forth the allegations in support of the request.

(2) ACTION ON RECEIPT OF PETITION.—Not later than 90 days after receiving a petition under paragraph (1), the Secretary shall—

(A) decide whether or not the allegations in the petition warrant further action by the Secretary in regard to the foreign industry and its host country under subsection (a); and

(B) notify the petitioner of the decision under subparagraph (A) and the facts and reasons supporting the decision.

(c) CONSULTATION AND COMMENT.—Prior to identifying a foreign industry and its host country under subsection (a), the Secretary shall—

(1) consult with the United States Trade Representative, the Secretary of State, the Secretary of Commerce and the Secretary of the Treasury regarding such action;

(2) publish notice in the Federal Register that such an identification is being considered and inviting the submission within a reasonable time of written comment from the public; and

(3) take into account the information obtained under paragraphs (1) and (2).

(d) REVOCATION OF IDENTIFICATION.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary may revoke the identification of any foreign industry and its host country under subsection (a) if information available to the Secretary indicates that such action is appropriate.

(2) REPORT OF SECRETARY.—No revocation under paragraph (1) may take effect earlier than the 60th day after the date on which the Secretary submits to the Congress a written report—

(A) stating that in the opinion of the Secretary the foreign industry and host country concerned does not utilize child labor in the export of products; and

(B) stating the facts on which such opinion is based and any other reason why the Secretary considers the revocation appropriate.

(3) PROCEDURE.—No revocation under paragraph (1) may take effect unless the Secretary—

(A) publishes notice in the Federal Register that such a revocation is under consideration and inviting the submission within a reasonable time of written comment from the public on the revocation; and

(B) takes into account the information received under subparagraph (A) before preparing the report required under paragraph (2).

(e) PUBLICATION.—The Secretary shall—

(1) promptly publish in the Federal Register—

(A) the name of each foreign industry and its host country identified under subsection (a);

(B) the text of the decision made under subsection (b)(2)(A) and a statement of the facts and reasons supporting the decision; and

(C) the name of each foreign industry and its host country with respect to which an identification has been revoked under subsection (d); and

(2) maintain in the Federal Register a current list of all foreign industries and their respective host countries identified under subsection (a).

SEC. 5. PROHIBITION ON ENTRY.

(a) PROHIBITION.—

(1) IN GENERAL.—Except as provided in paragraph (2), during the effective identification period for a foreign industry and its host country the Secretary may not permit the entry of any manufactured article that is a product of that foreign industry.

(2) EXCEPTION.—Paragraph (1) shall not apply to the entry of a manufactured article—

(A) for which a certification that meets the requirements of subsection (b) is provided;

(B) that is entered under any subheading in subchapter IV or VI of chapter 98 (relating to personal exemptions) of the Harmonized Tariff Schedule of the United States; or

(C) that was exported from the foreign industry and its host country and was en route to the United States before the first day of the effective identification period for such industry and its host country.

(b) CERTIFICATION THAT ARTICLE IS NOT A PRODUCT OF CHILD LABOR.—

(1) FORM AND CONTENT.—The Secretary shall prescribe the form and content of documentation, for submission in connection with the entry of a manufactured article, that satisfies the Secretary that the importer of the article has undertaken reasonable steps to ensure, to the extent practicable, that the article is not a product of child labor.

(2) WRITTEN EVIDENCE.—The documentation required by the Secretary under paragraph (1) shall include written evidence that the agreement setting forth the terms and conditions of the acquisition or provision of the imported article includes the condition that the article not be a product of child labor.

SEC. 6. PENALTIES.

(a) UNLAWFUL ACTS.—It is unlawful—

(1) during the effective identification period applicable to a foreign industry and its host country, to attempt to enter any manufactured article that is a product of that industry if the entry is prohibited under section 5(a)(1); or

(2) to violate any regulation prescribed under section 7.

(b) CIVIL PENALTY.—Any person who commits any unlawful act set forth in subsection (a) is liable for a civil penalty of not to exceed $25,000.

(c) CRIMINAL PENALTY.—In addition to being liable for a civil penalty under subsection (b), any person who intentionally commits any unlawful act set forth in subsection (a) is, upon conviction, liable for a fine of not less that $10,000 and not more than $35,000, or imprisonment for 1 year, or both.

(d) CONSTRUCTION.—The violations set forth in subsection (a) shall be treated as violations of the customs laws for purposes of applying the enforcement provisions of the Tariff Act of 1930, including—

(1) the search, seizure and forfeiture provisions;

(2) section 592 (relating to penalties for entry by fraud, gross negligence, or negligence); and

(3) section 619 (relating to compensation to informers).

SEC. 7. REGULATIONS.

The Secretary shall prescribe regulations that are necessary or appropriate to carry out this Act.

SEC. 8. DEFINITIONS.

For the purposes of this Act:

(1) MANUFACTURED ARTICLE.—A manufactured article shall be treated as being a product of child labor if the article—

(A) was fabricated, assembled, or processed, in whole or part;

(B) contains any part that was fabricated, assembled, or processed, in whole or in part; or

(C) was mined, quarried, pumped, or otherwise extracted, by one or more children who engaged in the fabrication, assembly, processing, or extraction—

(i) in exchange for remuneration (regardless to whom paid), subsistence, goods or services, or any combination of the foregoing;

(ii) under circumstances tantamount to involuntary servitude; or

(iii) under exposure to toxic substances or working conditions otherwise posing serious health hazards.

(2) CHILD.—The term "child" means an individual who has not attained the age of 15.

(3) EFFECTIVE IDENTIFICATION PERIOD.—The term "effective identification period" means, with respect to a foreign industry or country, the period that—

(A) begins on the date of that issue of the Federal Register in which the identification of the foreign industry or country is published under section 4(e)(1)(A); and

(B) terminates on the date of that issue on the Federal Register in which the revocation of the identification referred to in subparagraph (A) is published under section 4(e)(1)(B).

(4) ENTERED.—The term "entered" means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

(5) FOREIGN INDUSTRY.—The term "foreign industry" includes any entity that produces a manufactured article in any possession or territory of a foreign country.

(6) HOST COUNTRY.—The term "host country" means any possession or territory of a foreign country that is administered separately for customs purposes and on which a foreign industry produces a manufactured article.

(7) MANUFACTURED ARTICLE.—The term "manufactured article" means any good that is fabricated, assembled, or processed. The term also includes any mineral resources (including any mineral fuel) that is entered in a crude state. Any mineral resource that at entry has been subjected to only washing, crushing, grinding, powdering, levigation, sifting, screening, or concentration by flotation, magnetic separation, or other mechanical or physical processes shall be treated as having been processed for the purposes of this Act.

(8) SECRETARY.—The term "Secretary", except for purposes of section 4, means the Secretary of the Treasury.

[From the New York Times International, July 9, 1992]

BOUND TO LOOMS BY POVERTY AND FEAR, BOYS IN INDIA MAKE A FEW MEN RICH

(By Edward A. Gargan)

SEWAPURI, India.—As the summer sun labored toward the desiccated plains of northern India, Amarnath Kumar, a straw-thin 10-year-old boy, and three friends crept away from the red adobe hut that had been their prison for 18 months. Across the blistered soil of fallow wheat fields, the boys hurried north, avoiding other people, hurrying into the descending darkness.

Behind them, in the adobe enclosure, they left other children—children bought or stolen from the parents, taken to toil as virtual slaves on the carpet looms of eastern Uttar Pardesh.

For 12, 14, 16 hours a day, every day of the week, every week of the year, children as young as eight sit on rough planks knotting colored yarn around the stretched cords of the loom's warps, creating the carpets that India sells around the world.

What the four boys were escaping was the explosion of such slavery in this area, the use of children to fuel the rapid growth of the carpet industry. The United States is the biggest customer for Indian carpets.

BUYING A BOY FOR $50

There are no reliable data on the number of children working here; indeed, carpet brokers, professional associations and judicial officers all deny that any substantial number of children are working in bondage.

But estimates by others of the children's workforce in this area range from 300,000 to over a million. According to a report last month by the International Labor Organization, India has 44 million child laborers nationwide.

In most cases, the children who work in the carpet belt are purchased from their parents, or merely taken with promises of future payments. The vast majority come from the poorest parts of Bihar, the most impoverished state in India.

When parents are in fact paid, the going rate for an eight-year-old boy is 1,500 to 2,000 rupees ($50 to $66), a substantial sum for many families.

Once the deal is struck, the procurer will take 10 or 15 children at a time by bus and train to the carpet belt, usually to the town of Badhoi near here, where the loom owners will come to pick up their new workers.

Typically, says Raman Kant Rai, who campaigns to help the children, a boy may work three to five years before being returned to this family, having grown too large to work in the cramped dirt wells behind the looms. On occasion, however, some boys continue to work into their late teens and twenties, at which point they are given a minimal wage and become permanent workers in the industry.

Across India, in quarries, brass smelters, glass factories and match and explosives plants, children labor in dangerous, unhealthy and oppressive conditions, often against their will, sometimes with the consent of their parents. Child labor continues despite a 1973 law prohibiting all forms of bonded or slave labor and a 1986 act banning workers under the age of 14 from a broad range of industries.

Yet each year more and more children are forced into hazardous work places, sometimes with the connivance of the authorities, often with their tacit acceptance of child labor as an unpleasant fact of life. No one has ever gone to prison in India for using children as workers.

LOCKED IN DORMITORIES

"Nowadays, migrant child labor, bonded child labor, has increased," said Mr. Rai. "The people who are engaged in this have all kinds of money and influence. In this area, there has not been a single raid by the authorities."

Only rarely, it seems, do children escape their servitude: they are too young, too far from home, too terrified. At night, many loom owners keep the children locked in dormitories, adobe buildings with simple mats on dirt floors. And during the day, while not literally chained to their looms, the stare and the lash of loom owners bond the children to the planks on which they sit.

There are no roads into the nearby village of Bibris, just a rocky path that meanders in from a faint macadam strip that heads off toward a nearby town. Cows and coal-black water buffaloes are tethered to wooden stakes outside mud-walled houses.

Here and there, faint thumping drifts from earthen buildings. Around a corner, a row of village houses opens onto a courtyard bustling with the pat of bare feet and quiet words as dozens of boys, some just seven or eight, unwind huge skeins of undyed wool.

Inside the huts, huge wooden looms, strung with plain yarn like harps, reach from the bottom of the pits to the clay-tiled roofs. And behind them, on worn planks, sit more shirtless young boys, four to a loom, poking fingers through the warp, squeezing a snippet of yarn through and back and knotting it, all in a blur of movement. The tips of their fingers are strangely pink and shiny. After a time, the boys bash their knots together with mallets.

"In this village," explained Mr. Rai, "there are 4,000 looms. This village is the most problematic in the carpet belt, problematic in the sense it has the most loomage, the most notorious men." He pointed to a doe-eyed boy whose head barely reached above the seat of the bicycle on which he leaned.

"That boy," Mr. Rai said, "is eight. He was beaten for one year because he couldn't learn how to weave fast enough. The youngest boy I have seen is six and a half."

INDUSTRY GROWING RAPIDLY

India is expected to sell about $170 million worth of carpets abroad this year, the vast majority hand-woven on looms here, virtually all of them by children. The United States, the largest customer, takes about 45 percent of the exports, Germany is the second-largest buyer.

India's carpet industry began to blossom in the last decade, after carpet exports from Iran and Afghanistan were reduced by international sanctions and war. While Indian carpets did not approach the quality of Persian or Afghan rugs, the finest is inexpensive enough and well enough made to sell well in the West.

"In 1970, there were not more than 20 or 30 exporters in this country," said Jalil Ansari, the secretary of the All India Carpet Manufacturers Association, in the town of Bhadohi. "Now there are more than 2,000."

Typically, an exporter will contract with dozens or hundreds of loom owners scattered through the carpet belt.

BONDAGE? WHAT BONDAGE?

Both the exporters and the carpet association are aware that widespread use of child labor violates Indian law and could create difficulties in selling carpets in the West if the extent of the practice became widely known. As a result, the association has suggested labeling carpets with tags declaring that they had been woven without the use of children.

Chandramani Mishra, a member of the manufacturers' association, said nothing had come of the suggestion. But, he added, "if you want a label, no problem."

Sometimes children are able to break out of their imprisonment. Amarnath Kumar is one of the few.

"We came to the railway crossing," he remembered. "The man who operated the crossing said, 'Where are you going?' We told him we escaped from Chhateri village. He let us sleep there. The next morning a man came and we told him our whole story. He said, 'Come with me.' He gave us food and then brought us to Dr. Rai."

For nearly 20 years, Mr. Rai, a chemist by training, has worked in this area to enhance village economies by encouraging new but simple farm technologies, home weaving of garments, improved sanitary conditions, education for village women—consciously emulating Mahatma Gandhi's idea of small-scale, self-reliant rural communities. Only in the last year or so, however, has he begun to pay attention to the children laboring in the villages.

A BOY ESCAPES

"For a long time, you look at something and don't see it," he said. "You don't know what you're seeing. We have a lot of blindness."

Amarnath, who was eight years old when he first began working on the looms, talked of his life in Chhateri a few days after he escaped, with his three friends.

He said that a middleman, a man well-known in the area of north Bihar where his family lived, had told his father, "Your son will get good clothing, good food and 350 rupees a month"—about $12.50. "My father said O.K. After all, I was just a cow boy."

"The first day we were brought there," he said, "we were told we had to weave carpets. I took two months to learn. No money was paid to me. All day we had to weave, even up until midnight. We were not allowed to rest during the day. If we became slow, we were 'murga banatha'"—a phrase that means "made like a chicken." Amarnath squatted on the ground and bent over like a chicken. "We were beaten with sticks," he said. "We were beaten on our backs."

NO VEGETABLES, NO MILK

"He used to lock us up at home, in a room," Amarnath continued. "There were nine of us in the room. For one and a half years we never had green vegetables, not to talk of milk. He did not even allow us to have a bath."

Among the more worldly exporters and business leaders, there is increasing sensitivity to the use of children on the looms, but little has deterred the practice.

Mr. Ansari, the secretary of the carpet makers' association, said his industry was the backbone of the region's economy. But he denied that children, particularly children in forced labor, were the main workforce in the industry.

'IT IS NOT TRUE'

"It is not true," he said. "Once or twice a week I go and I do not find it. They are getting the salary. They are getting food." Even downstairs from his office, though, children were hunched over carpets, clipping the outlines of flowers from the wool surface.

The senior civil official in the carpet belt, the district magistrate for Varanasi, Saurabh Chandra, said no children were being held in abusive labor in his domain. "Whenever any violation of any statute is pointed out," he said, "action is taken. We have released a large number of bonded laborers."

But in the interview Mr. Chandra could not say how many children had been released or when, or whether any penalties had been imposed on the loom owners who had pressed the children into bondage.

Then Mr. Chandra asked, "Why are you defaming our industry?"

Several hours after the interview the reporter was approached at his hotel by two of Mr. Chandra's associates lugging a stack of files and seeking to expand on Mr. Chandra's comments.

One, Sudhir Kumar, the subdivisional magistrate, said no cases of bonded labor had ever appeared in his court.

The other, D.P. Singh, the deputy labor commissioner, said he was unsure how many children worked in the region's carpet industry. "When my inspectors come, the neighboring looms hide the children." But then, he admitted, "no inspector has been posted for this specific problem."

Mr. CONRAD. Mr. President, I want to express my strong support for legislation being introduced today by Senator HARKIN, the Child Labor Deterrence Act of 1992. I have joined as a cosponsor of this legislation, and believe, as Senator HARKIN has stated, that this measure is "both good morals and good policy."

This measure makes an important statement about the commitment of the United States to the world's children. It would prohibit the importation of any product, made in whole or in part, by children under the age of 15 who are employed in industry or mining. The sheer number of children under the age of 15 who are employed—generally illegally—provides justification for this measure: UNICEF estimates that between 80 and 200 million children fall into this category.

Many of my colleagues may have read with interest an article which appeared in the May 4, 1992, issue of Newsweek magazine, which addressed the issue of global slavery. Although the issue of slavery is not at the heart of this measure, the article provided many tragic examples of the situations in which children live and work today. One terrible situation in Pakistan was described: "The abuse of children in the carpetmaking industry is legendary; last September one factory owner kidnapped two brothers, 8 and 10 years old, chained them to their looms and made them work 12 hours a day."

The United States has not to date taken an active lead in protecting the millions of children who work around the world. Even in our own country, American domestic child labor laws have remained virtually unchanged since the passage of the 1938 Fair Labor Standards Act.

The issue before us today is the role of the United States in strengthening—and in some cases, establishing—child labor protections for children who work in production overseas. The 1984 Generalized System of Preferences contained a provision that the President of the United States may not grant duty-free treatment to any country not granting its people "internationally recognized worker rights," which includes "a minimum age for the employment of children." The problem with this policy, however, is that imposition of sanctions or denial of benefits is normally not mandatory. Mr. President, it is time to go further than that. While a number of measures have been introduced in the Congress in recent years, little action has been taken to address the issue of international child labor. It is time now to take action on this front.

The legislation introduced today by Senator HARKIN would establish requirements to move toward the prohibition of child labor in production overseas. First, the Secretary of Labor would be required to develop and maintain a list of foreign countries that export products made with the use of child labor. Second, domestic importers would be required to certify that they have taken steps to ensure that products imported from countries identified on this list are not products of child labor. Finally, the President is urged to initiate an agreement with other governments to achieve a ban on trade in the products made with the use of child labor.

I believe these requirements would promote the interest of the United States in eradicating abusive child labor across the globe. I urge my colleagues to give their close consideration and support to this measure, which I believe merits passage by the 102d Congress.

By Mr. KENNEDY (for himself, Mr. COCHRAN, Mr. PELL, Mr. INOUYE, Mr. SIMON, Mr. WELLSTONE, and Mr. DODD):

S. 3134. A bill to expand the production and distribution of educational and instructional video programming and supporting educational materials for preschool and elementary school children as a tool to improve school readiness, to develop and distribute educational and instructional video programming and support materials for parents, child care providers, and educators of young children, to expand services provided by Head Start programs, and for other purposes; to the Committee on Labor and Human Resources.

READY TO LEARN ACT

• Mr. KENNEDY. Mr. President, when E.B. White was first introduced to television in 1938, he said he hoped it would be "the test of the modern world * * * a soaring radiance in the sky."

Half a century later, television is clearly a pervasive influence in our modern society, and our hearing today is an attempt to assess its current and potential role in meeting one of the most important of those tests—preparing children to learn.

Television is in 97 percent of the homes in the United States. It is a

proven, highly cost-effective source of information and education. It is also a tutor, a babysitter, and a counselor. By the time the vast majority of children go to kindergarten, they will have attended electronic preschool—and spent 4,000 hours in front of the television set.

Each year, 19 million preschoolers watch 14 billion hours of television. The average child watches 28 hours of TV every week. By age 14, a child has seen 13,000 televised murders. It is time to send a different message.

Television has the capability to be a remarkable teacher—an excellent supplement to traditional school; 97 percent of all classrooms in Japan make use of educational television. In contrast, the United States gives much lower priority to this form of encouraging learning. The youngest preschool children are ignored at a time when they are most receptive and impressionable, and their skills for later learning are being shaped.

It is clear that we can do better. We can use television more effectively to facilitate learning by children and students of all ages. By failing to take full advantage of this powerful teaching medium, we are selling ourselves, our children, and our country short.

We have made worthwhile progress in the past. Public television and the Children's Television Workshop have provided outstanding choices for young audiences. Programs like "Sesame Street" and "3-2-1 Contact" capture the minds and imaginations of children—but there is much more that needs to be done. Japan and Britain each provide more than five times our yearly volume of new children's programming.

We are all well aware of the extreme inequalities in American education. Far too many children find their futures permanently blighted by the lack of even minimal educational opportunity. By limiting quality educational programming to cable TV and pay-per-view stations, we are sending a message that money buys education, and ignoring a large share of the population.

Currently, cable television offers some quality children's programming, and is available in 60 percent of the country's households. But that leaves 40 percent of the population with no access to this alternative.

In an effort to deal with this challenge and provide more alternatives for children and parents, I am today introducing the Ready to Learn Act. It will create an office in the Department of Education to set priorities for the educational needs of preschool and elementary school children, and support initiatives to achieve these priorities through the production and distribution of quality educational television programming for children, parents, and caregivers. The Department will also be authorized to support grants for the development and distribution of training materials for parents and child care providers.

The bill also designates a "Ready to Learn Channel" for educational programs on one channel of the new public broadcasting satellite, to be launched next year.

These measures are a logical and necessary step in any comprehensive plan for school reform. The cost is modest. The bill authorizes $50 million for this initiative for fiscal year 1993, and such sums as may be necessary for 1994 through 1997.

In a hearing this morning, the Labor and Human Resources Committee heard from parents, educators, child advocates, and television producers and executives on the need for a federally supported program to increase the amount of quality educational programming available for young children and their caregivers. I ask unanimous consent that the testimony from the hearing, and the complete text of the legislation, be included in the RECORD.

I urge my colleagues to support this legislation and I look forward to its consideration by the full Senate.

Mr. President, I ask unanimous consent that the text of the bill and some supporting materials be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3134

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Ready to Learn Act".

SEC. 2. PURPOSE.

It is the purpose of this Act to—

(1) expand the availability of educational and instructional video programming and supporting educational resources for preschool and elementary school children as a tool to improve school readiness; and

(2) to develop and distribute educational and instructional video programming and support materials for parents, child care providers, and educators of young children.

SEC. 3. READY TO LEARN PROGRAMS.

The General Education Provisions Act is amended by inserting after section 405 (20 U.S.C. 1221e) the following new section:

"READY TO LEARN TELEVISION

"SEC. 405A. (a) IN GENERAL.—The Secretary is authorized to implement programs to develop, produce, and distribute educational and instructional video programming for preschool and elementary school children in order to facilitate the achievement of the national education goals. In administering such programs, the Secretary shall ensure that such programming is made widely available to young children, their parents, child care workers and Head Start providers with support materials as appropriate to increase the effective use of such programming.

"(b) DUTIES OF THE SECRETARY.—In administering the programs under subsection "(a), the Secretary shall—

"(1) set priorities regarding the educational needs of preschool and elementary school children;

"(2) award grants for the development and dissemination of educational and instructional programming, in accordance with the priorities established under paragraph (1), for preschool children, children in transition programs from early childhood education to elementary school grades, and elementary school children;

"(3) award grants for the development and dissemination of training materials, including—

"(A) interactive programs, designed to enhance knowledge of children's social and cognitive skill development and positive adult-child interactions; and

"(B) support materials to promote the effective use of materials developed under paragraph (2);

among parents, Head Start providers, in-home and center based, day care providers, early childhood development personnel and elementary school teachers, and after school program personnel caring for preschool and elementary school children;

"(4) establish and administer a Special Projects of National Significance program to award grants to public and nonprofit private entities for the purpose of—

"(A) addressing the learning needs of young children in limited English proficient households, and developing appropriate educational and instructional television programming to foster the school readiness of such children;

"(B) developing programming and support materials to increase literacy skills among parents to assist parents in teaching their children and utilizing educational television programming to promote school readiness; and

"(5) establish within the Department a clearinghouse to compile and provide information, referrals and model program materials obtained or developed under this section to parents, child care providers, and other appropriate individuals or entities to assist such individuals and entities in accessing programs and projects under this section;

"(6) coordinate activities with the Secretary of Health and Human Services in order to—

"(A) maximize the utilization of quality educational programming by preschool and elementary school children, and make such programming widely available to federally funded programs serving such populations; and

"(B) provide information to the grantees of those Federal programs that have major training components for early childhood development, including Head Start and State training activities funded under the Child Care Development Block Grant Act of 1990 regarding the availability and utilization of materials developed under paragraph (3) to enhance parent and child care provider skills in early childhood development and education; and

"(7) provide consultation to the Secretary of Commerce regarding what the educational and informational needs of preschool and elementary school children are for the purposes of implementing section 103 of the Children's Television Act of 1990 (Public Law 101-437) and coordinate the activities funded under this Act with the activities of the National Endowment for Children's Educational Television established under subpart B of part IV of title III of the Communications Act of 1934.

"(c) DEVELOPMENT AND DISTRIBUTION OF EDUCATIONAL PROGRAMMING FOR CHILDREN.—

"(1) GRANTS.—To carry out the provisions of subsection (b)(2), the Secretary shall award grants to eligible applicant entities to—

"(A) facilitate the development or acquisition, directly or through contracts with producers, of children's television programming, educational programming for preschool and elementary school children, and accompanying support materials and services that promote the effective use of such programming; and

"(B) contract with entities experienced in the distribution of such programming, such as public broadcasting entities and those funded under the Star Schools Assistance Act, for the dissemination of programs developed under this paragraph to the widest possible audience appropriate to be served by the programming by the most appropriate distribution technologies.

"(2) ELIGIBLE ENTITIES.—To be eligible to receive a grant under paragraph (1) an entity shall—

"(A) be a nonprofit, nongovernmental entity with a demonstrated record of facilitating the development and distribution of educational and instructional television programming for preschool and elementary school children; and

"(B) have a demonstrated record of contracting with the producers of children's television programming for the purpose of developing or acquiring educational television programming for preschool and elementary school children.

"(2) CULTURAL EXPERIENCES.—Programming developed or acquired under this subsection shall reflect the recognition of diverse cultural experiences in engaging and preparing young children for schooling.

"(d) DEVELOPMENT AND DISTRIBUTION OF TRAINING MATERIALS.—To carry out the provisions of subsection (b)(3), the Secretary may award grants to public or private nonprofit entities with demonstrated expertise and experience in the development of video or other educational materials regarding child development and early childhood education for parents and child care providers, to—

"(1) develop, directly or through contracts, training and support materials for the purpose of informing and training parents and personnel in accordance with subsection (b)(3); and

"(2) produce such materials for distribution to the broadest audience appropriate to be served, including parents, day care providers, public libraries and Head Start centers.

"(e) REPORTS AND EVALUATION.—

"(1) ANNUAL REPORT TO THE SECRETARY.—The entity receiving funds under subsection (c) shall prepare and submit to the Secretary an annual report that shall contain such information as the Secretary may require. At a minimum the report shall contain a description of the program activities undertaken with funds received under this section, including—

"(A) the programming that has been developed directly or indirectly by the entity, and the target population of the programs developed;

"(B) the support materials that have been developed to accompany the programming, and the method by which such materials are distributed to consumers and users of the programming;

"(C) the means by which programming developed under this section has been distributed, including the technologies that have been utilized to make programming available and the geographic distribution achieved through such technologies; and

"(D) the initiatives undertaken by the entity to develop public-private partnerships to secure non-Federal support for the development and distribution and broadcast of educational and instructional programming.

"(2) REPORT TO CONGRESS.—The Secretary shall prepare and submit to the relevant committees of Congress a biannual report to include the following information—

"(A) a summary of the information made available under subsection (d)(1);

"(B) a description of the training materials made available under subsection (b)(3), the manner in which outreach has been conducted to inform parents and child care providers of the availability of such materials, and the manner in which such materials have been distributed in accordance with such subsection.

"(f) READY TO LEARN SATELLITE CHANNEL.—The Secretary may enter into a contract with a public broadcasting entity for the distribution of educational video programming for preschool and elementary school children, parents, and child care providers, on at least one channel under a satellite interconnection authorized under section 396(k)(10) of the Communications Act of 1934 (47 U.S.C. 396(k)(10)). Such channel shall be designated as the Ready to Learn Channel.

"(g) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section, $50,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1997. Not less than 60 percent of the amounts appropriated under this paragraph for each fiscal year shall be used to carry out subsection (c).

"(2) SPECIAL PROJECTS.—Of the amount appropriated under paragraph (1) for each fiscal year, not to exceed 10 percent of such amount shall be utilized in each such fiscal year for activities under subsection (b)(4).

"(h) ADMINISTRATIVE COSTS.—With respect to the implementation of subsection (c), entities receiving a grant from the Secretary may use up to 5 percent of the amounts received under a grant under such subsection for the normal and customary expenses of administering the grant.".

SEC. 4. AMENDMENTS TO HEAD START.

(a) ALLOTMENT OF QUALITY IMPROVEMENT FUNDS.—Section 640(a)(3)(B) of the Head Start Act (42 U.S.C. 9835(a)(3)(B)) is amended—

(1) in clauses (i) and (iii) by striking "and second" and inserting ", second, and third", and

(2) in clause (ii) by striking "second" and inserting "third".

(b) PARENTAL SKILLS.—Section 640(a)(4)(B)(i)(II) of the Head Start Act (42 U.S.C. 9835(a)(4)(B)(i)(II)) is amended by inserting ", literacy," after "skills".

(c) REDUCTION OF REQUIRED AMOUNT OF MATCHING FUNDS.—Section 640(b) of the Head Start Act (42 U.S.C. 9835(b)) is amended—

(1) in the first sentence by striking ", in accordance with regulations establishing objective criteria,", and

(2) by inserting after the first sentence the following:

"For the purpose of making such determination, the Secretary shall take into consideration with respect to the Head Start program involved—

"(1) the lack of resources available in the community that may prevent the Head Start agency from providing all or a portion of the non-Federal contribution that may be required under this subsection;

"(2) the impact of the cost the Head Start agency may incur in initial years it carries out such program;

"(3) the impact of an unanticipated increase in the cost the Head Start agency may incur to carry out such program;

"(4) whether the Head Start agency is located in a community adversely affected by a major disaster; and

"(5) the impact on the community that would result if the Head Start agency ceased to carry out such program.".

(d) ISSUANCE OF TRANSPORTATION SAFETY REGULATIONS.—Section 640 of the Head Start Act (42 U.S.C. 9835) is amended by adding at the end the following:

"(i) The Secretary shall issue regulations establishing requirements for the safety features, and the safe operation, of vehicles used by Head Start agencies to transport children participating in Head Start programs.".

(e) REVIEW OF HEAD START AGENCIES.—Section 641(c)(2) of the Head Start Act (42 U.S.C. 9836(c)(2)) is amended—

(1) by inserting "(A)" after "(2)", and

(2) by adding at the end the following:

"(B) The Secretary shall conduct a review of each newly designated Head Start agency immediately after the completion of the first year such agency carries out a Head Start program.

"(C) The Secretary shall conduct follow-up reviews of Head Start agencies when appropriate.".

(f) DESIGNATION OF HEAD START AGENCIES.—Section 641(d) of the Head Start Act (42 U.S.C. 9836(d)) is amended—

(1) in paragraph (6) by striking "and" at the end, and

(2) by adding at the end the following:

"(8) the plan of such applicant to provide (directly or through referral to educational services available in the community) parents of children who will participate in the proposed Head Start program with child development and literacy skills training in order to aid their children to attain their full potential; and

"(9) the plan of such applicant who chooses to assist younger siblings of children who will participate in the proposed Head Start program to obtain health services from other sources.".

(g) POWERS AND FUNCTIONS OF HEAD START AGENCIES.—Section 642(b) of the Head Start Act (42 U.S.C. 9836(b)) is amended—

(1) by striking "and (5)" and inserting "(5)", and

(2) by inserting before the period at the end the following:

"(6) provide (directly or through referral to educational services available in the community) parents of children participating in its Head Start program with child development and literacy skills training in order to aid their children to attain their full potential; and (7) consider providing services to assist younger siblings of children participating in its Head Start program to obtain health services from other sources.".

(h) ADMINISTRATIVE REQUIREMENTS AND STANDARDS.—Section 644 of the Head Start Act (42 U.S.C. 9839) is amended—

(1) by striking "No" and inserting "Except as provided in subsection (f), no",

(2) in the first sentence of subsection (c) by striking "subsection (a)" and inserting "subsections (a) and (f)", and

(3) by adding at the end the following:

"(f)(1) The Secretary shall establish uniform procedures for Head Start agencies to

request approval to purchase facilities to be used to carry out Head Start programs.

"(2) Except as provided in section 640(a)(3)(A)(v), financial assistance provided under this subchapter may not be used by a Head Start agency to purchase a facility (including paying the cost of amortizing the principal, and paying interest on, loans) to be used to carry out a Head Start program unless the Secretary approves a request that is submitted by such agency and contains—

"(A) a description of the site of the facility proposed to be purchased;

"(B) the plans and specifications of such facility;

"(C) information demonstrating that—

"(i) the proposed purchase will result in savings when compared to the costs that would be incurred to acquire the use of an alternative facility to carry out such program; or

"(ii) the lack of alternative facilities will prevent the operation of such program; and

"(D) such other information and assurances as the Secretary may require.".

(i) TECHNICAL AMENDMENTS.—(1) Section 640 of the Head Start Act (42 U.S.C. 9835) is amended—

(A) in subsection (a)—

(i) in paragraph (2)—

(I) in subparagraph (A) by inserting "children" after "handicapped",

(II) in subparagraph (B) by striking "Commonwealth of," and inserting "Commonwealth of", and

(III) in subparagraph (C) by striking "any",

(ii) in paragraph (3)(A)(vi) by striking "section 640(a)(2)(C)" and inserting "paragraph (2)(C)", and

(iii) in paragraph (5)(B)(i) by striking "clause (A)" and inserting "subparagraph (A)", and

(B) in subsection (g) by striking "for all" and inserting "For All".

(2) Section 640A(b) of the Head Start Act (42 U.S.C. 9835a) is amended—

(A) in paragraph (1) by striking "solution" and inserting "solutions", and

(B) in paragraph (7)—

(i) in clause (iii) by striking "the", and

(ii) in clause (iv) by striking "the" the first place it appears.

(3) Section 642(c) of the Head Start Act (42 U.S.C. 9837(c)) is amended by striking "subtitle" and inserting "subchapter".

(4) Section 643 of the Head Start Act (42 U.S.C. 9838) is amended by striking "the such" and inserting "such".

(5) Section 651(g) of the Head Start Act (42 U.S.C. 9846(g)) is amended—

(A) by striking "physicial" and inserting "physical", and

(B) by striking "(g)(1)" and inserting "(g)".

(6) Section 651A of the Head Start Act (42 U.S.C. 9846a) is amended—

(A) in subsection (f) by striking "COMPARISION" and inserting "COMPARISON", and

(B) in subsection (g) by inserting "of title I of the Elementary and Secondary Education Act of 1965" after "chapter 1".

SEC. 5. TECHNICAL AMENDMENTS RELATING TO THE CHILD CARE AND DEVELOPMENT BLOCK GRANT ACT OF 1990.

(a) PLACEMENT OF ACT.—Section 5082 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508; 104 Stat. 1388-236) is amended in the matter preceding paragraph (1) by striking "title IV" and inserting "title VI".

(b) REFERENCES IN DEFINITIONS.—Section 658P of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858n) is amended—

(1) in paragraph (7)—

(A) by striking "section 4(b)" and inserting "section 4(e)", and

(B) by striking "(25 U.S.C. 450b(b))" and inserting "(25 U.S.C. 450b(e))", and

(2) in paragraph (14)—

(A) by striking "section 4(c)" and inserting "section 4(l)", and

(B) by striking "(25 U.S.C. 450b(c))" and inserting "(25 U.S.C. 450b(l))".

SEC. 6. TECHNICAL ASSISTANCE, TRAINING, AND STAFF QUALIFICATIONS.

Section 648 of the Head Start Act (42 U.S.C. 9843) is amended—

(1) in subsection (a) by striking paragraph (2) and inserting the following: "(2) training for specialized or other personnel needed in connection with Head Start programs, including funds from programs authorized under this subchapter to support an organization to administer a centralized child development and national assessment program leading to recognized credentials for personnel working in early childhood development and child care programs, training for personnel providing services to non-English language background children, training for personnel in helping children cope with community violence, and resource access projects for personnel working with disabled children."; and

(2) by adding at the end thereof the following new subsections:

"(c) The Secretary shall—

"(1) develop a systematic approach to training Head Start personnel, including specific goals and objectives for program improvement and professional development, a process for continuing input from the Head Start community, and a strategy for delivering training and technical assistance; and

"(2) report on such approach to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives.

"(d) The Secretary may provide, either directly or through grants to public or private nonprofit entities, training for Head Start personnel in the use of the performing and visual arts and interactive programs using electronic media to enhance the learning experience of Head Start children.".

SEC. 7. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this Act shall not apply with respect to fiscal years beginning before October 1, 1992.

SENATE LABOR AND HUMAN RESOURCES COMMITTEE HEARING—READY TO LEARN: TELEVISION AS TEACHER

PANEL I

Senator Daniel Inouye, Hawaii, Chairman, Senate Subcommittee on Communications.

Representative Ron Wyden, Oregon, Chairman, House Subcommittee on Regulation, Business Opportunities, and Energy.

PANEL II

Bernice Smoot, Co-Chair, Parents United for D.C. Public Schools accompanied by Janece Smoot, age 9, Washington, D.C.

Peggy Charren, President, Action for Children's Television, Cambridge, Massachusetts.

Dr. Nicholas Zill, Director, Child Trends, Inc., Member, National Eucation Goals Panel Readiness Resource Group, Washington, D.C.

PANEL III

Richard Carlson, President and CEO, Corporation for Public Broadcasting, Washington, D.C.

David V.B. Britt, President and CEO, Children's Television Workshop, New York City.

Brigid Sullivan, Vice President for Children's Programming, WGBH, Boston, Massachusetts.

Dr. Carolyn Dorrell, South Carolina Educational Television, Columbia, South Carolina.

TESTIMONY OF BERNICE S. SMOOT

It seems to me that network television stations prefer not to live in the real world. Rather, they prefer to sit in ivory tower offices and create programming that emulates the real world.

It would be easy for them to argue for the right to simply create and air whatever will sell.

But, for those of us who live in the real world, things are not that simple.

For example, as a mother, I have the right, supposedly, to feed my children as I wish.

But, if I chose to feed my children doses of poison each day; once discovered, I would be held responsible for not providing adequate nourishment, liable for the damage my lack of responsibility has inflicted upon my children.

Network television executives must realize that what they produce in ivory tower suites impact our real world.

They must also realize that, like the rest of us living in this real world, they must provide adequate viewing nourishment or be held liable and subject to regulatory intervention.

Presently, network television is getting away with murder.

Network executives are freely feeding our children doses of poison each day, and making a fortune doing it.

Sure, we parents have to regulate what our children watch. But if we are to let our children watch network television at all, it gets down to a matter of trying to decide which poison is least harmful, because very, very little of what is available is truly good for children.

In my case, my daughters are ages nine and four. At age five or so, I can recall my oldest daughter, Janece, having nightmares after watching the six o'clock news.

She saw graphic depictions of crime scenes, heard graphic details of murder—one horrifying incident after the other.

Now, Janece stays apprised of current events by articles I select for her to read from the newspaper.

As for television, they both now watch acceptable videos that we choose to rent, or public television programming.

My four-year-old's favorites are Sesame Street, any nature series and, for some reason I haven't yet figured, those culinary programs with chefs preparing unusual recipes.

By and large, network television is out, with exception of things like the Cosby show.

There was a time when all of society embraced and nurtured its children. From the man who owned the corner store and refused to let little Johnny buy ice cream before dinner, to former network executives who wouldn't air anything that might offend the viewing family.

Today, there appears to be a race to see who can sooner get away with showing how much sex, how much murder, how much brutality.

It can be argued that this is what viewers want. But, I would modify that a little. It is what viewers have come to expect.

Thanks to years of the media force-feeding bits of violence here and there, we have come to believe we are not entertained unless we are shocked and horrified.

I can remember as a child forcing myself to watch the Outer Limits and the Twilight Zone. I would get so frightened, I wouldn't sleep well at night.

It seems that once I had outgrown Captain Kangaroo and Romper Room, there were no mental challenges left, so I settled for emotional stimulation.

Today, in the real world, there are so many single, working heads of households and so many homes where both parents are working.

Because child care is expensive, as soon as children are old enough to go home after school alone, they are sent there.

And what do most do when they get there? Turn on T.V.

Television has become the ultimate babysitter. Well, babysitters must be responsible for the children left in their care.

Everyone talks about the need to get back to values. Well, I can't think of a more important one to return to than the value of nurturing our Nation's children.

It is no longer fair or reasonable for an entity that occupies and impacts virtually every American family not to have some responsibility for what it feeds that family.

It is no longer enough to say we have the right to choose what we watch, because in instances where many families do not have access to cable and public-TV programming, network television is the only choice.

And no matter which network station you turn to, the viewing options are essentially the same. News at five, six and eleven. Sex, violence and ho-hum comedy in between.

In the real world, in my real world, our black children are having a tough time. We live with violence in our streets. In D.C., there is an increasing number of children enduring violence in their homes.

Younger and younger girls are becoming mothers. Younger and younger boys are becoming killers.

Outside of heavenly intervention, the only thing that can change our children's lives for the better is education. Yet, in our schools, even this is woefully lacking.

While we parents and our Government work to put quality education in our schools, businesses like network television must work to put quality education programs in our homes.

It is socially irresponsible to omit quality programming.

Is it right for government to force the media moguls' hands in this regard?

I believe, in cases where we adults have proven ourselves irresponsible in our ability to do what is right and necessary, there must be regulation. Otherwise, negligence and irresponsibility continue to go unchecked.

The Ready To Learn Television Act of 1992 seems headed in the right direction. It is an important step toward regulating the irresponsibility of ivory-tower executives who have grown rich feeding our children—and us—daily doses of poison.

Can they provide educational programming and continue to prosper?

Somehow, I would find it incredibly hard to doubt that the same creative media minds that have so successfully managed to get an entire society to relish a diet of blood, guts and horror—which, by the way, does us no fundamental good—could have any difficulty, whatsoever, coming up with a nutritious, U.S. required daily allowance of educational sustenance that could benefit us all tremendously.

All they need is the right challenge and a ticket back into the real world. I believe the testimony they will hear today is the ticket; it is thus up to you to give them the challenge.

TESTIMONY BY PEGGY CHARREN

I am Peggy Charren, President of Action for Children's Television (ACT), a not-for-profit child advocacy group dedicated to improving children's television and eliminating commercial abuses in children's media. I appreciate the opportunity to testify today on new legislation designed to ensure that every child enters school ready to learn.

Children in the U.S. today spend nearly four hours a day watching TV, more time than they spend in the classroom or in any activity except sleep. Many people worry about the effects of television on children.

They worry about incessant exposure to violence. Are children learning that aggressive behavior is an acceptable solution to problems?

What are the effects of TV's racial and sexual stereotypes?

Has TV's rapid-fire delivery affected children's ability to learn?

Although that TV set in over 98% of our homes too often seems like Pandora's Box, it can also become a magical Aladdin's Lamp. It can offer our youngest viewers the opportunity to learn about a wide variety of places, people, occupations, ideas, lifestyles and value systems, many of which will affect the way they will live the rest of their lives. It can teach them to value poetry and music, freedom of expression and peace. It can empower them to make their world a better place.

One broadcasting entity that does meet the needs of children is, of course, the Public Broadcasting Service. PBS, since its inception 25 years ago, has been a constructive alternative to commercial television and has had a profound and positive effect on children's lives. PBS has pioneered many creative programs for young people—Mister Rogers Neighborhood, Sesame Street, Reading Rainbow, Long Ago and Far Away, for example—and has made TV learning both in school and at home a high adventure.

It is particularly important to note that PBS service to kids is commercial-free, uninterrupted by messages telling them that it is what you have and what you can get that counts, not who you are and what you know.

Too often, commercial TV is used to educate children to behave as a market segment, to lobby for products they don't need and cannot afford, to consume instead of save.

American commercial cable companies, local stations and national networks are corporations with a responsibility to shareholders to maximize profits. Maximum diversity of service to the television public does not usually go hand in hand with maximum profits.

The lack of choice in the children's TV menu prompted Congress to enact the Children's Television Act of 1990, putting Congressional spotlight on the scarcity of informative programming for younger audiences. The law requires broadcasters to serve "the educational and informational needs of children through the licensee's overall programming, including programming specifically designed to serve such needs." The target audience is defined by the law as 2 to 17 years of age for the program provision.

Predictably, most broadcasters are trying to circumvent the law. They are attempting to redefine their animated adventure-fare, obviously created primarily to entertain, and state in license renewal forms that these shows were designed to educate. Stations are aiming what they call their one and only "FCC compliance show" at teenagers, hoping these programs will also pick up younger viewers and young adult audiences.

Some network and station executives are thumbing their nose at the law. NBC affiliates have replaced Saturday morning cartoons with an extension of "The Today Show," without adding any service to children on weekdays.

"Electronic Media" (July 13) reported a rather strange response from Rusty Durante, Vice-President and General Manager, KWU-TV, the Fox station in Las Vegas. When asked, "What programming works best for you in the summer," he replied:

"The younger skewing stuff during the summer, obviously, with kids out of school. Some good examples are 'Arsenio Hall' and 'Studs,' which are in late night. They perform much better in the summer because kids can stay up later to watch them * * *"

Let's hope he doesn't plan to use "Studs" as his "FCC Compliance Show!"

Concerned groups of parents, pediatricians and teachers will be working in their communities to counter this irresponsible response to Congressional concern. But it is obvious that even if the law starts to work for children, it is unlikely to serve the education needs of viewers under seven.

According to a cover story in "Media Week" (June 22), 3.6 million kids have disappeared from the Saturday morning TV audience since Nielsen introduced people meters in 1987. With audience size determining the price paid for commercial time, networks and stations are worrying that advertisers are getting some kids for nothing. "Media Week" states that the core of Nielsen's plan to deal with this children's TV problem is "the hiring of 'child specialists' who will be trained with the help of child psychologists. They will go out with Nielsen field representatives to motivate kids to use the people meter."

Here we have a perfect example of commercial TV's attitude toward motivating and educating children. The goal is not to improve children's readiness to learn in school or anywhere else, but to teach our most vulnerable citizens to push ratings buttons so advertisers can teach them what to want out of life.

The goal of advertisers to maximize audience is especially destructive to children because the 2-to-12 year-old audience is the most diverse ten year period in human development. Some two-year-olds can't walk, and some 12 year-olds are having babies. Just about any adult (with the possible exception of our Vice-President) can enjoy "Murphy Brown." But songs and stories for 4-year-olds hold little charm even for 8 year-olds.

An added problem for programmers who deal in demographics is that very young children are less effective lobbyists for the purchase of toys and food than older kids.

I have outlined some of the reasons I strongly support the Ready-to-Learn Television Act.

As a matter of national education policy, we must take advantage of the fact that the TV screen is one of the most powerful, cost-effective instruments of education the world has ever known.

A federally-funded, free from commercials, Ready-to-Learn Satellite Channel under the auspices of public broadcasting, providing programming for children and for parents will help to fill some gaping holes in America's TV schedules.

New distribution channels make it possible to reach Head Start Centers, nursery schools, libraries and homes with video and support materials designed to advance national education goals. In addition to supporting educational programming for young audiences, this bill recognizes that parents and other care-givers need help children to help learn.

I think it's obvious that passage of the Ready to Learn Television Act will give children, parents, and all Americans a head start toward a better world for our kids.

TESTIMONY OF NICHOLAS ZILL, PH.D.

In 1990, President Bush and the governors of all the states agreed on six National Education Goals for the U.S. to achieve by the year 2000 (U.S. Department of Education, July 1990). The first goal is that all children in America will start school "ready to learn." The school readiness goal draws attention to two insights about children's academic progress. The first is that how children do in school depends on more than just their knowledge and skills. It depends as well on their physical well-being, emotional security, social confidence, and the degree of interest and engagement they bring to classroom activities (National Education Goals Panel, 1991). In other words, success in school is affected by the growth and development of the "whole child."

The second point is that how children do in school depends in large measure on things that happen before they ever set foot in a classroom. Among the prior influences on learning are the child's genetic endowment, prenatal conditions, the circumstances of birth, early nutrition, the early family environment, environmental hazards to which the child is exposed, and the kind of medical care that is available to the family. The significance of these influences was recognized in two of the objectives set forth under the goal of school readiness. One was that:

"Children will receive the nutrition and health care needed to arrive at school with healthy minds and bodies, and the number of low birthweight babies will be significantly reduced through enhanced prenatal health systems."

The other relevant objective was that:

"Every parent in America will be a child's first teacher and devote time each day helping his or her preschool child learn; parents will have access to the training and support they need" (U.S. Department of Education, July 1990, p. 4).

THE IMPORTANCE OF THE PERIOD BETWEEN BIRTH AND SCHOOL ENTRY

In addition to emphasizing the importance of the period before birth, the readiness goal causes us to be concerned about the period between the time a newborn leaves the birthing hospital with its mother and the time four-to-six years later when the same child appears at the schoolhouse door for entry into pre-k, kindergarten, or first grade. From an educational standpoint, this is a "dark period" in the sense that, during that time, the child does not come into regular contact with any social institution other than its family. To be sure, survey data tell us that nowadays more than 70 percent of youngsters spend some time in group daycare or nursery school before entering kindergarten (National Center for Education Statistics, 1992), and more than 90 percent receive medical care at least occasionally (National Center for Health Statistics, March 1991, p. 138). But there are as yet no explicit public standards against which the child's growth and development or health and safety are appraised. Yet from both educational and health perspectives, the interval between birth and school entry is a time of great developmental vulnerability.

A period of developmental vulnerability: Children under 5, especially those who live in impoverished circumstances, face threats to their health, safety, and psychological development that can have long-term effects on their chances of becoming good students and healthy, productive adults. A deficient diet during the first few years can impede physical growth and brain development. Inadequate medical care can result in the young child not being immunized against communicable diseases, or not getting glasses when he or she needs them or receiving delayed treatment for ear infections or other conditions that can lead to permanent impairments.

Toddlers who receive insufficient supervision or live in run-down housing as they begin to walk, climb, and explore are at risk of disfigurement, handicap, and even death from falls, burns, poisonings, and other injuries. Preschoolers who are not read to or played with in intellectually stimulating ways fall behind their peers in cognitive development and arrive at school in need of compensatory instruction. Young children who experience the family turmoil and disruption that often accompanies or causes early poverty are in jeopardy of long-lasting disturbances to their social and emotional development (Allison & Furstenburg, 1989; McLoyd, 1990; Dawson, 1991; Zill, Moore, Smith, Stief, & Coiro, 1991).

Early childhood is a difficult time for parents in even the best of circumstances, and poor young children whose parents are stressed are in danger of being physically abused or seriously neglected, more so than older children or non-poor children of the same age (McLoyd, 1990). Each year, more than 2 million reports of child maltreatment are received by child protection agencies across the U.S., with nearly 45 percent of them involving children under 6 (Select Committee on Children, 1989, pp. 68–69, 190–191). Death rates due to child battering and other forms of homicide are five times higher for infants, and nearly twice as high among children aged 1–4, as they are among 5–14 year-olds (National Center for Health Statistics, January 1992, Tables 7 and 23).

A window of opportunity: Although early childhood is a period of family stress and developmental vulnerability, it is also a time in which efforts to intervene and change children's lives for the better have a greater chance of success than similar efforts begun in middle childhood or adolescence. If parents can be made aware of the things they can do to nurture the development of their young children, and the right kinds of resources, supports, and services can be made available to the family before permanent damage is done, it may be possible to reduce the chances of later school failure, delinquency, and disturbance. That is the theory behind early intervention and family support programs designed to "break the cycle of disadvantage." The available evidence suggests that these programs can have significant long-term effects, at least in the limited situations in which they have been tested thus far (Berrueta-Clement, Schweinhart, & Barnett, 1986; Schorr, 1988).

As the premier communications medium of our time, television clearly has a role to play in helping parents to help their young children.

STATEMENT OF AMBASSADOR RICHARD W. CARLSON

I. INTRODUCTION

Mr. Chairman, Members of the Committee, I am Richard Carlson. Until last week I was U.S. Ambassador to the Republic of Seychelles. For almost six years prior to that I was Director of Voice of America. Monday, I was pleased to join the Corporation for Public Broadcasting (CPB)[1] as its President and Chief Executive Officer. Among the many reasons for my wanting to become associated with CPB is the unique opportunity to assist in advancing the use of public television as an effective educational tool. I believe that public telecommunications can make the most immediate contribution to education in the area where it has excelled most—children's programming.

We are all too familiar with the education crisis our country faces. Economic reports indicate that workers are less productive because they lack the necessary education to perform their jobs well. Education studies reveal that we still have major disparities in educational attainment among children from all walks of life, but particularly minority children and children from low-income families.

A major contributing factor to these problems is that we are sending children to school who are not prepared to learn. In response to this troubling situation, making sure that all children arrive at school ready to learn by the year 2000 has become the nation's first education goal. Despite our efforts to improve our schools, little can be achieved if we do not first address the need to give children a good start. A report issued recently by the Carnegie Foundation for the Advancement of Teaching, titled *Ready to Learn: A Mandate for the Nation*, states:

"In our reach for excellence, we have ignored the fact that to improve the schools, a solid foundation must be laid. * * * We have not sufficiently acknowledged that if children do not have a good beginning, it will be difficult, if not impossible, to compensate fully for that failure later on."

Since its creation, the Corporation has worked hard to develop the potential that public telecommunications holds to help children prepare for school. In addition to helping to develop the highest quality children's programming for broadcast, CPB has moved beyond broadcasting to expand programming uses for learning in traditional school settings, and to promote new technologies to better educate children in school and at home. These achievements in advancing the ready-to-learn effort would not have been possible without the support of federal funds through CPB. Today, we join this committee's efforts to build upon our successful partnership for the benefit of our nation's children and its future.

II. NEED FOR READY TO LEARN LEGISLATION

Mr. Chairman, you have recognized in introducing your legislation that Congress must act now to utilize telecommunications technologies to help to prepare children for school. We think this legislation is needed for three reasons: (1) it will respond to a critical need to improve and expand the quality of children's programming; (2) it will develop programs for use in schools, in childcare centers, and at home that are tailored to meet

[1]The Corporation is a nonprofit, nongovernmental corporation authorized by the Public Telecommunications Act of 1967 to facilitate the full development of public telecommunications and distribution of high-quality public service programs to all Americans.

ready-to-learn objectives; and, (3) it will fill an important funding gap that severely limits public television's ability to fulfill its potential to help in this nation's efforts to meet ready-to-learn goals.

A. Need to Improve and Expand Quality Children's Programming

Television plays a major role in the lives and development of American children. According to the Carnegie Foundation's *Ready-to-Learn* report, a child watches an average of one-and-a-half hours of television a day by the time he or she is six months old. By the time the child reaches kindergarten, he or she will have viewed more than 4,000 hours of television. "Next to parents," the report states, "television is perhaps a child's most persistent, and most influential teacher, and there is no way for a national ready-to-learn campaign to succeed fully unless the television industry becomes an active partner in the process."

While quality children's programming can have a positive influence on children, the fact is that children are being exposed through commercial and cable television to increasing amounts of sex, violence, and hard-sell advertising. For example, in May, 1992, the Citizen's Communications Center released a survey finding that commercial television stations appear to be making little change in providing the educational requirements under the Children's Television Act of 1990 (Pub. L. 101-437). This survey found that 27 of 32 stations that submitted license renewal applications had no locally produced children's programming, and the vast majority sought to justify programs such as *Super Mario Brothers and Teenage Mutant Ninja Turtles* as educational and informational.

With the knowledge that television plays an increasingly important role in the lives of children, and with the growing recognition that television, video, and other technologies can benefit education, we must take care to provide quality programming that will maximize the positive contributions these technologies can make to school readiness.

B. Television as a Teaching tool

The potential for television to serve as an effective teaching tool is well established in academic research, and was supported most recently in a report released by the American Psychological Association (APA) in February 1992. That report, *Big World, Small Screen: The Role of Television in American Society*, underscores how television can have very positive influences on children when there are good programs and good patterns of use of television.

The report documented many of television's negative effects on children—the exposure to violence, the development of antisocial behavior, the increased anxiety in children and reduced attention span—and concluded that "our failure to realize the potential benefits of the medium is perhaps more significant than our inability to control some of its harmful effects." The APA reinforces the view of the Carnegie Foundation's *Ready-to-Learn* report that "TV's great potential as a teacher has, in the best sense, remained largely unfulfilled" and recommends that "the most important change needed in our broadcasting system * * * is to increase noncommercial sources of funding" in order to support quality, diverse programming for underserved audiences such as children.

While important steps remain to be taken to improve the quality of television programming and its uses in the home, promising, though limited, steps are being taken in schools. Today, educators are looking for new learning approaches using technology to help them with problems such as severe budget cuts at the local and state levels, the departure of many skilled teachers from the profession, and the ability to alter curriculum development to keep pace with the nation's changing needs.

CPB has been tracking national trends in classroom use of television since 1977. In our most recent survey conducted last year, some striking findings were reported by the nation's teachers, principals, and superintendents. Three important patterns emerged in the study: (1) the use of television and video by classroom teachers has grown markedly; (2) teachers have very positive attitudes about television's and video's educational value and use in schools; and (3) despite the enthusiasm by teachers for instructional television and video, the availability of equipment and resources is often severely limited in schools, and funding is decreasing.

Perhaps the most important finding of the study was the extent that positive educational impacts of television were being observed by teachers in their own classrooms. For example, 73 percent of teachers reported that instructional television was generating new interest in topics among their students. Fifty-one percent of teachers reported that they saw their students learning more when instructional television was being used. Most teachers, 83 percent, agreed that instructional television helps them be more creative in their instruction. In addition, 91 percent of teachers surveyed agreed that instructional television and video can have a positive impact on the quality of American education.

These studies emphasize the positive influences that television and video can have on children, and the potential benefits to teachers and students when quality programming is available. The technology exists to expand greatly the use of such programming as a teaching tool in homes, schools, and day care centers, but sufficient programming does not exist to use these and future technologies to the maximum possible extent.

C. Funding of Children's Programming

Funding is a major roadblock to developing quality children's programming that will help to meet the ready-to-learn goal. While the Corporation has a strong track record in leveraging federal dollars to the maximum possible extent for programming, our experience has found that children's programming simply does not attract sufficient private funding. Thus, for children's programming initiatives, federal support is critical.

The development of quality programming is an expensive and time consuming proposition, especially for children's programming. Formative testing is irreplaceable. Experts must be involved from the start in developing the content and instructional design of any program. The program must also be tested and retested with children to ensure that it is appropriate for the child's age and development, that it is effective in teaching a concept more widely, and that it captures the child's attention, making the program fun to watch. This long, careful, painstaking process drastically increases the cost of a program, but is essential for effective, compelling, high quality children's programming that meets its educational goals.

CPB's discretionary funding has never been sufficient to capitalize fully on the desired quantity of children's programming. Throughout CPB's history, the needs of some age group of children has suffered from a lack of programming. While CPB continues to try to meet these needs, and remains one of the few sources of significant funding for children's programming, the Corporation continually is hard-pressed to meet its mission in addressing the needs of all our children.

III. THE ROLE OF CPB IN EDUCATION

A. CPB's Mission in Education

When President Lyndon B. Johnson signed the Public Broadcasting Act in 1967, he remarked:

"I believe the time has come to stake another claim in the name of all the people, stake a claim based upon the combined resources of communications. I believe the time has come to enlist the computer and the satellite, as well as television and radio and to enlist them in the cause of education."

Mr. Chairman, those words are even more relevant now than they were 25 years ago. When Congress established the Corporation in 1967, it directed CPB to find, initiate, and finance the production of high-quality educational, informational, instructional, and cultural programs. For early 25 years, programs supported by CPB have been produced by a variety of entities, including public broadcasting stations, minority-based production companies, independent producers, and educational institutions. Through their educational content, innovative qualities, and diversity, these programs have enhanced the knowledge and imagination of all Americans.

In addition, CPB always has encouraged the use of public television as a provider, partner, and supplement to school-based or formal education. Currently, approximately 65 percent of the public broadcasting schedule is devoted to delivering educational programming during the school day and, increasingly, programs produced for the national primetime schedule, such as the *National Geographic* specials and *The Civil War*, have value in the classroom.

B. CPB'S SUPPORT OF QUALITY CHILDREN'S EDUCATIONAL AND INSTRUCTIONAL PROGRAMMING

An integral part of CPB's mission since its inception in 1967 has been to provide educational and informational programming for children—including programming targeted to preschoolers and school-age children for home viewing and for classroom instruction.

The commitment of CPB and public broadcasting in serving the educational and informational needs of children has benefitted a whole generation of American children who have grown up under the positive educational influence of *Sesame Street* and *Mister Rogers' Neighborhood*. Both programs, which received early support from the Corporation, have achieved world acclaim and received countless awards. As Congress recognized in adopting the Children's Television Act of 1990 (Pub. L. No. 101-437, 104 Stat. 996), viewing *Mister Rogers' Neighborhood* leads to increased pro-social behavior, task persistence, and imaginative play; and watching *Sesame Street* helps preschool children develop letter, number, pre-reading, and vocabularly skills (S. Rept. No. 101-227, 101st Cong., 1st Sess. 5-7 (1989)). Further, the Senate Report recognized that "today, public television is the primary source of educational children's programming in the United States, broadcasting over 1,200 hours of children's educational programming for home viewing." (Id.)

In becoming the recognized leader in identifying and supporting high-quality educational children's programs, CPB's leader-

ship and concern for the educational well-being of our young people have led to the development of some of the most successful children's programming in television's history. This programming has helped millions of school-age children expand their awareness of subjects such as the environment, science, math, ethics, and art. For example:

Square One TV reinforces mathematical concepts for 8-to-12-year-olds and connects them to real world problems with educational game shows, musical videos, animation, and comedy sketches;

3-2-1 Contact presents science concepts to 8-to-12-year-olds by taking them to places they cannot go—above the clouds, under the seas, beneath the earth, inside the atom;

Reading Rainbow, an Emmy award-winning production and the most frequently utilized program in classrooms from public or private sources, has helped millions of primary grade school children to preserve their reading skills by motivating them to read over the summer;

Zoom!, a series written by, performed by, and directed to children ages 7 through 12, presented riddles, games, film, and drawings contributed by thousands of young viewers;

Electric Company taught basic reading skills to 6-to-11-year-olds who were not reading at their grade level, and during the 1970's was the most widely used television series in American classrooms;

WonderWorks, an anthology drama series for family viewing, offers an array of fantasy, mystery, comedy, drama, history, and computer animation; and,

DeGrassi Junior High and *DeGrassi High*, a series that followed a cast of young people from junior high into high school, provided guidance in confronting problems such as teen pregnancy, drugs, and child abuse, that real teenagers face.

In recent years, CPB has redoubled its commitment to children's programming. CPB has declared education, including children's education, its highest corporate priority for the 1990s and children's programming continues to be CPB's top priority in the development of new programs. Almost one-third of all projects selected for funding in the past two years through the CPB Television Program Fund are designed specifically for children. For example:

Where in the World is Carmen Sandiego?, which premiered in 1991, is a game-show format series for children ages 10-to-13 that teaches participants and viewers geography concepts and facts.

The Puzzle Factory, will be a new daily *preschool* series featuring a group of puppets that embody the diversity of American culture while encouraging preschool children to make choices, take creative risks, and experiment. The series takes place in a make-believe workshop where the *Puzzle Factory* puppets work together to find positive solutions to daily problems.

Ghostwriter, is scheduled to premiere this fall as a weekly series designed to encourage elementary school students to improve their reading and writing skills. The series includes 42 programs, with extensive educational and after-school club materials, including 10 issues of a free magazine at 2 million copies per issue that will be distributed to low-income children—at no cost to the families—to ensure that these children are not denied the opportunity to improve their writing skills.

Other children's programs supported by CPB include:

Lamb Chop's Play-Along, an interactive series for preschoolers which, with its stories, songs, dances, stunts, games, jokes, and riddles, encourages viewers to participate;

Barney and Friends, a series featuring a large purple dinosaur and a multicultural cast of young children, engages children in learning activities, familiar songs, and storytelling; and,

Long Ago & Far Away, a series based on children's literature, brings children and families popular stories and tales from different cultures.

In the years since 1977, CPB has funded 24 instructional television program series for the classroom. From that first series in 1977, *ThinkAbout*, which helped students acquire and practice the study and inquiry skills needed to become independent learners and successful problem solvers, CPB has supported a wide range of instructional programs for the classroom, including:

Walking With Grandfather, which dramatized traditional North American Indian folktales and explored the beauty and power of language;

The Universe & I, which examined different scientific disciplines, such as physics, geology, astronomy, planetology, meteorology, oceanography, and paleontology, to gain a greater understanding and knowledge of the Earth, the solar system, and the universe itself;

Up Close and Natural, which answered children's questions about the natural world while sharpening their skills of observation, description, and classification; and,

Newscast From the Past, which was patterned after contemporary news programs, and helped students understand and interpret long-term historical trends in politics and power, religion and philosophy, science and technology, the arts and day-to-day life.

CPB's efforts do not end with programming, however. Equal in importance to the dollars to make the broadcast program is the funding from the Corporation used to develop program-related teaching aids, such as workshops, teachers' guides, and parents' guides, to help parents, teachers, and childcare providers maximize the educational value of these programs. In addition, public broadcasting has developed supplementary aids for school-age children which include homework helplines and vacation magazines that contain reading lists, projects, and extracurricular activities.

More than 15 years ago, CPB took the lead in developing print materials—teacher, student, and general audience guides—to be distributed for use with general audience broadcasts. *NOVA* was one of the first series to have this value-added component. Through the success of many projects, CPB was able to demonstrate to corporate underwriters and to foundations that the impact of these materials would extend to new and different audiences and enhance the meaning of the programs as well.

Today, CPB and its co-underwriters are involved in not only the development of ancillary print support, but also the development of computer software, videodiscs, and single-concept video modules that build on the original broadcast program and make it a more usable resource for the classroom. CPB also is training teachers and childcare providers in the integration of video into the curriculum. Projects such as *Sesame Street*, *Mister Rogers' Neighborhood*, and a whole range of math and science instructional television programs have been a part of a nationwide effort to make better and more appropriate use of television in both preschool and classroom settings.

C. CPB's Commitment to Expanding Education Efforts

Using the Corporation's limited discretionary funds, CPB has stepped-up its efforts to enhance public broadcasting's capacity and ability to improve education services for children, parents, childcare providers, and teachers. CPB is providing initial funding to projects intended to reach beyond the home to day care centers and other nontraditional learning sites. Other funds are being directed to assist in training day care providers and teachers as well as to provide the foundation for community awareness and activism in addressing such education problems as illiteracy. The following are examples of some of these efforts:

1. Assisting Day Care Providers and Teachers

CPB and public television are taking the lead in developing new and innovative ways to ensure that children arrive at school ready to learn. This effort includes not only services and programming for children, but also addresses the critical need to equip the child's first instructors: parents, childcare providers, and elementary school teachers with additional resources to help them prepare children for school. Several programs involve the redesigning and repackaging of traditional public television children's programming with instructor training and teaching materials for childcare providers. These exciting projects are still in their infancy but already have proven to be effective in local communities. However, the lack of sufficient funding is threatening their use nationally. Among the examples are:

Extending the Neighborhood to Childcare, funded by CPB and conducted by WGTE-TV, in Toledo, Ohio, and Family Communications, Inc., producers of the *Mister Rogers' Neighborhood* series. This innovative project uses programming from *Mister Rogers' Neighborhood* and incorporates it into childcare curriculum to help children gain essential interaction and social skills that will assist them in school. For example, on January 29, 1992, more than 5,000 childcare providers and early childhood education professionals nationwide participated in a training teleconference funded by CPB to extend the use of *Mister Rogers' Neighborhood* to childcare centers. The teleconference was presented at 121 sites around the country, including 109 public television stations. Participants received the *Mister Rogers' Plan and Play Book*, which offers ideas for hands-on activities in the childcare setting, and a one-year subscription to a quarterly newsletter published by WGTE. In addition to funding the teleconference and newsletter, CPB funded the original development and publication of the book.

Sesame Street Preschool Education Program (PEP), developed by Children's Television Workshop. This project uses *Sesame Street* programs and training and support materials to help childcare providers and parents nurture the development of learning skills and the curiosity of children ages 2-5. The project, which recently completed a rigorous pilot test stage in Dallas, Texas, and currently reaches 40,000 children and 3,600 childcare providers in 29 states through 54 public television licensees, seeks to train care providers to create an active learning environment for children. Thirty-six additional licensees are expected to be added in the third phase of the project which begins this fall. The project has significant potential, yet resources are lacking for wide implementation.

Early Childhood Professional Development Network, developed by South Carolina Edu-

cational Television (SC ETV). This project trains childcare providers through videotapes which are produced and distributed by SC ETV. SC ETV has produced videotapes to train professionals who verify that daycare providers meet basic educational standards, for the National Association for the Education of Young Children through its National Academy of Early Childhood Programs. Approximately 2,500 have been trained using these tapes. In addition, SC ETV has worked closely with the Council for Early Childhood Professional Recognition to provide childhood development associate training.

The Parents Project, developed by KQED-TV in San Francisco, California. This pilot project is designed to develop services which will encourage parents to become more involved in their children's education, to make more effective use of public television's educational programming in their homes, and to become better partners with teachers in their children's education.

WNET Teacher Training Institute, launched by Thirteen* WNET/Texaco Training Institute in the summer of 1990 through a partnership between Texaco, Inc., and Thirteen *WNET, New York. The Institute was founded to tap educational television's enormous potential in the classroom by training teachers to use it effectively. It brings together elementary and secondary school teachers to develop creative approaches to teaching with instructional television. In the New York area alone, the Institute already has reached 2,500 teachers and 13,000 students from diverse geographic and socioeconomic schools. With additional support from Texaco and CPB, WNET's Educational Services has launched the *Teacher Training Institute for Science, Television and Technology*. Based on the success of the pilot project, this model has been expanded to 10 additional sites throughout the country. It is estimated that by the end of 1992, 15,000 teachers will have received training as part of this project.[2]

Annenberg/CPB Math and Science Project, a collaboration between the Annenberg Foundation and CPB to help teachers in kindergarten through 12th grade better convey the concepts and principles of science and the ways in which science, mathematics, and technology depend upon one another. The project uses communications and educational technologies, including computers, two-way video, laser discs, electronic networks, and data services as a means of achieving its objectives.

2. Creating Programs That Encourage the Growth of a Literate Society

Public broadcasting also has been successful in merging volunteer networks with telecommunications resources to empower communities to develop solutions to local problems that often have national ramifications. This "added value" allows a single program, accompanied by the local efforts of hundreds of stations, to attract thousands of individual volunteers. Programs that motivate citizens to participate in solving problems locally create a snowballing effect that can generate a national solution to a major "national" problem.

For example, one project supported by the Corporation that seeks to combat illiteracy is the Family Literacy Alliance. The Alliance is a collaboration among the producers of three award-winning public television children's series: *Long Ago & Far Away*, *Reading Rainbow*, and *WonderWorks*. The goal of the Alliance is to encourage public television stations to reach new audiences by working with local agencies and organizations to find ways to integrate public television programming into existing community programs and bring the joy and fun of reading to families. The efforts of the Alliance center around the need to promote literacy by working with local community organizations which serve populations that have not been part of the traditional public broadcasting audience. Examples in the pilot effort included Cambodian Mutual Assistance Program, Boston, Massachusetts; Even Start, Albuquerque, New Mexico; Allegheny County Jail's Program for Female Offenders, Allegheny County, Pennsylvania; and the Indian Wellness Center, Omaha, Nebraska.

Public broadcasting also has had significant success in building awareness of the problem of adult illiteracy in America. Awareness campaigns, such as the successful Project Literacy U.S., or PLUS, stimulated the growth of successful volunteer-based, one-to-one outreach programs designed to help illiterate adults learn to read, help those for whom English is a second language develop English language skills, and help learners with limited skills master new ones. In its four-year campaign, *PLUS* also stimulated awareness of the need for workplace literacy, family literacy, and adult mentoring of at-risk students.

The CPB-funded Public Television Outreach Alliance (PTOA), which began *PLUS*, is public broadcasting's primary outlet for helping to enable local communities to achieve solutions to problems. The PTOA continues to make education activities its highest priority.

D. New Public Broadcasting Satellite

CPB and public broadcasting have undertaken a major effort to develop satellite technology to extend educational opportunities. This effort was made possible when the Congress invested in new public broadcasting satellites for radio and television that will increase dramatically public broadcasting's potential contribution to education. In 1988, Congress authorized, and appropriated over the next three years, nearly $200 million for CPB to replace the public broadcasting satellite interconnection systems. These new satellite interconnection systems, which will become operational in late 1993, will provide public broadcasting with new opportunities to integrate many of the existing and developing technologies into the satellite-based interconnection systems that will provide service into the next century.

With six transponders and the advent of digital compression, public television will be able to provide simultaneously up to 20 channels. Digital compression techniques allow more information (video, data, audio) to be compressed into a single transponder. Each channel will be able to deliver high-quality video and audio services for education, such as a dedicated children's channel. New satellite technologies will make possible two-way, interactive instruction.

An example of how satellite technology already has made a difference in education is the Satellite Educational Resources Consortium (SERC), which received one of the first Star Schools grants and which CPB helps to support. Through live, interactive classes, SERC gives students in geographically and economically disadvantaged areas access to excellent teachers in critical subject matters such as mathematics, science, and foreign languages. SERC utilizes a collaboration of state public broadcasting networks and departments of education in 23 states. Sixty percent of participating SERC schools are rural, and 71 percent are eligible for Chapter I funds.

The new public broadcasting satellite will enable much broader implementation of these types of services. However, funding now must be targeted toward the development of programming in order to use the satellite to its maximum capacity.

IV. USING CPB AND PUBLIC BROADCASTING AS A VEHICLE FOR READY-TO-LEARN PROGRAMMING

Mr. Chairman, CPB applauds and supports the efforts of this committee to focus national attention on the current state of children's educational programming. The Corporation believes that the objectives contained in your legislation represent another integral step in our nation's resolve to address this important need. As the recognized leader in identifying and funding the development of high quality children's programming, CPB stands ready in every way to assist you and the Committee in your efforts.

We are deeply appreciative of this Committee's recognition of the value that public broadcasting brings to our nation's youth. With comparatively few resources, public broadcasting has set the standard which is not met through any other programming.

Federal support for public broadcasting to increase the availability of children's educational programming can offset the void in quality children's programming by providing the means to the single institution which has demonstrated both the true commitment and the capability to use television to benefit the education of children. By using CPB as a vehicle, Congress also taps an effective system of locally based institutions which actively engages in supporting community education efforts; avoids unnecessary duplication of resources and unnecessary administrative delays that could result from assigning the task to a federal agency; and ensures maximum accountability for the most effective use of federal dollars while protecting against federal interference in programming.

CPB's expertise and proven track record in the funding and development of children's television uniquely positions the Corporation to act as a resource for Congress. Over the 25-year history of CPB, the Corporation has developed a vast network of experts, producers, and educators in the field that, together with CPB, have provided the foundation for the high-quality, educational children's programming and services available on public broadcasting.

By utilizing CPB, Congress will limit duplication and devote maximum funding to programming with little lose due to overhead and administrative costs. The Corporation, through its strong network in communities such as education, psychology, child development, television programming, and related disciplines, provides an attractive opportunity for the Congress to capitalize on CPB's experience. One organizational model is the Annenberg/CPB Project, a semi-autonomous, dedicated fund. Under this model, the Project handles program priorities and funding decisions with administrative support provided by CPB. The establishment of a similar model by the Congress and the reliance on other CPB resources would serve to dedicate further maximum resources toward children's programming.

CPB is accountable to Congress for the expenditure of federal funds, yet still has a mandate to ensure protection from governmental interference in all programs funded

[2]Those sites include New Orleans, Louisiana; Cleveland, Ohio; Columbia, South Carolina; Dallas, Texas; Kansas City, Missouri; Los Angeles and San Francisco, California; Madison, Wisconsin, Miami, Florida; and, Seattle, Washington.

by the Corporation. As the Chairman knows, CPB is a private, nonprofit, nongovernmental corporation, not a federal agency. Under the Public Broadcasting Act of 1967, CPB is removed from the government, thus assuring the public that editorial and artistic freedom are protected in programming funded with their money, while at the same time assuring Congress that the fund with which it is entrusted are being spent responsibly. In principle of avoiding pressure by outside funders on the editorial and artistic freedom of producers is anchored in the First Amendment. By design, CPB and public broadcasting have developed a structure, policies, and procedures to protect the integrity and freedom of program decisionmaking that cannot be duplicated within a government agency.

To ensure effectiveness, CPB also believes that any legislation should provide expressly for the development of training programs to enable day care providers and teachers to learn methods and exchange ideas about how programming and materials can be used most effectively. In addition, the legislation should emphasize the importance of the role of the parent or day care provider in preparing a child to learn and underscore the critical nature of their involvement in school readiness.

Finally, it would be essential that CPB have the flexibility to determine the most effective means of distribution to the widest audience, and to have the ability to employ new technologies as they become available. Since 1978, Congress has found that it is "in the public interest to encourage the growth and development of nonbroadcast telecommunications technologies for the delivery of public telecommunications services," (47 U.S.C. 396(a)(2)) including, but not limited to, coaxial cable, optical fiber, broadcast translators, cassettes, discs, microwave, or laser transmission through the atmosphere.

Consistent with that provision, the Senate included an amendment to the CPB reauthorization legislation when it was considered earlier this year which would require CPB to report on the potential distribution options for ready-to-learn programming within 90 days of enactment. CPB already has begun to prepare this report. Among the possible avenues for distribution which may be discussed in the report are use of the public television satellite to distribute programming to stations, as well as to schools or homes that have or can acquire downlink equipment; video cassette distribution; direct broadcast satellite distribution to schools or homes; and cable distribution.

V. CONCLUSION

As this nation commits itself to improving school readiness, we must heed the Carnegie report's words: "* * * there is no way for a national ready-to-learn campaign to succeed fully unless the television industry becomes an active partner." Because of the scarcity of funds available for children's programming, your legislation is an important factor in this campaign. Although CPB has set the standards for the identification and support of quality educational children's programs, the Corporation has never had, and does not currently have, sufficient funds to target an intensive effort such as this that is needed to ensure school readiness for our nation's future leaders.

The Carnegie report states, "If America hopes to achieve its first education goal, television must become part of the solution, not part of the problem." The Corporation for Public Broadcasting has been part of this solution for the past 25 years, but unless significant resources are targeted toward early childhood education, the Corporation will be forced to continue to turn away quality programming proposals for lack of sufficient funding. It is the children who lose under these circumstances, and our nation's future is threatened when our children suffer.

In closing, I would like to commend you, Mr. Chairman, for introducing legislation and holding this hearing on this important issue. Thank you for inviting me, on behalf of the Corporation, to share my thoughts with you. We are eager to be of further assistance.

DVBB ORAL TESTIMONY FOR SENATE COMMITTEE

Chairman Kennedy and Members of the Committee: I am David Britt, President/Chief Executive Officer of Children's Television Workshop. We at CTW applaud your leadership in holding these hearings today. The legislation proposed by Senator Kennedy responds to an urgent need. It focuses attention on using the media and technology in a variety of ways to serve America's children. With proper programming and support, CTW's experience shows that technology can make vital contributions. So we welcome this initiative and look forward to its progress.

I thought it would be useful to share with you some of the lessons CTW has learned in using media technology to serve children's education, and also to offer some thoughts you may want to consider as you move ahead with this initiative.

As you may know, CTW has about 25 years' experience in using mass media to educate children. We started with *Sesame Street*, which helps preschoolers get ready for school, both developmentally and intellectually, *3-2-1 CONTACT* and *Square One TV*, our series for eight- to twelve-year olds, help provide elementary-school children with informal education in, respectively, science and mathematics.

Research shows that children do learn from television. This is amply documented here in *The Power of Television to Teach*, which I would like to include in the record.

We have also proven that mass media, if it is widely distributed, can be a cost-effective educational tool, costing less than a nickel per viewing. We have been able to make our programs accessible to everyone through the support of public television's infrastructure.

However, the world has changed a great deal since our founding in 1968. Today, our children's educational needs are greater than ever. But more and more often, children are in child care rather than at home. At the same time, technology has become much more accepted as an educational tool in institutional environments.

To adapt to these changes, we at CTW are working on ways to make education available via broadcast and VCR technology. One example is the *Sesame Street* Preschool Educational Program Initiative, or *Sesame Street* PEP. *Sesame Street* PEP's goal is very simple: to help motivate children to learn. This is done by combining the proven educational power of *Sesame Street* as broadcast, with activities and storybook reading.

We have set up *Sesame Street* PEP as a partnership among public television stations, child care providers, other community organizations, public and private funders, and CTW. We at CTW produce *Sesame Street* and related materials, and provide training for care providers, in both family homes and organized facilities, in the use of PEP's components with young children.

The net result is that providers, particularly family child care providers, are better able to use television constructively—not just as a babysitter. Most importantly, they are better equipped to stimulate preschoolers' natural curiosity, to help prepare them for school. For many, *Sesame Street* PEP training is the first they have ever had. One provider told us that afterwards, she felt like an educator, not just a caretaker.

Sesame Street PEP began as a successful one-year pilot project in Dallas, Texas. Since the fall of 1991, the initiative has expanded to 55 partnerships in 29 states.

Sesame Street PEP meets local needs. For example, in Muncie, Indiana, public television station WIPB has brought *Sesame Street* PEP to the preschool program of the Miami Tribal Nation, and through Head Start, to most of the disadvantaged children in the county where the station is located.

Right now, *Sesame Street* PEP has reached about 45,000 children across the country. With CPB lead funding, we aim to bring PEP to five million children across the United States by 1996—half the number who will be in child care by then.

To reach older children, we have seized opportunities to adapt material from our science and mathematics programs for use in schools and afterschool programs. For afterschool programs, we have developed kits that combine videotape material from our science and mathematics series with entertaining and educational hands-on activities and games.

We train club leaders and after school program personnel to use these kits. Our kits have been adopted by state-funded afterschool programs in Hawaii and California, and are in use in over 45 states.

For example, in Los Angeles, the kits are being used in a community/based afterschool program, L.A.'s Best, which reaches close to 5,000 students aged five to eleven years in neighborhoods vulnerable to gangs and poverty, including south-central Los Angeles. Recently, L.A.'s Best held a city-wide science competition. The winners, two girls who won a week at the U.S. Parent/Child Space Camp in Huntsville, Alabama, were inspired by our kit on space adapted from *3-2-1 CONTACT*.

As interactive technologies—computer software and interactive video—become more a part of children's lives, we have looked for ways to put these media to educational use. For example, we were the first to produce educational games for Nintendo.

We see great potential in educational multimedia—combining video and high-quality sound with interactivity. We are working on products for schools as well as mass market.

But the real breakthrough will come when it is possible to "broadcast" interactive products. This will happen eventually. To that end, we are exploring ways of doing this through phone lines, cable broadcasting, and satellite distribution.

As you develop educational policy relating to today's technology—such as television—as well as tomorrow's, I'd like to make a few general observations. It is clear that we will have available a variety of distribution systems—cable, fiber optics, direct satellite broadcast. Therefore, it is crucial that legislation be highly flexible, and not wedded to any one technology, so that we can take advantage of new systems as they appear.

As new systems evolve, we must insure that children, our most important national resource, are not left out. Typically, the harsh economics of the commercial marketplace mean that children's education gets as-

signed a low priority. It needs to be our first priority.

America's children deserve the best possible programming that contributes to their education and healthy development. To ensure that this is so, programming and related services should be evaluated regularly for appeal and educational effectiveness.

Mr. Chairman, experience has taught us that if education is not included at the outset, it is difficult, if not impossible, to add it later. Again, thank you for your initiative in this important area, and for the opportunity to speak to you today.

TESTIMONY OF BRIGID SULLIVAN

Thank you, Senator Kennedy. I am the vice-president in charge of children's programming at WGBH-TV in Boston, As you may know, WGBH is one of the nation's most respected public television stations, having produced such award-winning series as "NOVA", "Frontline", "Masterpiece Theaters", and "The American Experience."

I have been responsible for developing the children's programming department since 1985, when WGBH made the decision to commit one million dollars of its own resources to children's television. We made this commitment because our audience ranks quality programming for children as its highest priority.

Since 1985, we have developed and produced three major television series for children "Degrassi Junior High," "Long Ago and Far Away", and "Where in the world is Carmen Sandiego?" These series have won numerous national and international awards, including the Emmy, the International Emmy, the Academy Award, and Prix Jeunesse. They have been praised by parents, teachers, and our most important critics—children. As one 8-year old from Wisconsin wrote, 'Carmen Sandiego' is wonderful. I get to know where places are, even though I'm only eight. Your show helped me place second in my school's geography bee. The kid that beat me was a sixth-grader." We've received thousands of similar letters over the past year. When 1 in 7 Americans can't locate the United States on a world map, this is no small victory.

In his review of "Long Ago and Far Away," TV critic for the New York Times, John O'Connor, wrote that the series made him sad, because it reminded him of what television could be for children, but wasn't. I quote, "It's unmistakable quality makes you keenly aware of the generally woeful state of children's television." O'Connor went on to call "Long Ago and Far Away" an oasis in the parched realm of programming for children.

None of these programs could have been launched without federal money. But we also need federal money to sustain these programs once they're on the air. As a producer, I can tell you how frustrating it is to create an innovative, educational children's series, only to have it cancelled for lack of funds. "Long Ago and Far Away," for example, recently lost its PBS and CPB funding. Why? Because those agencies need to spend their limited resources on new programming, which means there's nothing left for those programs already on the air.

We're often asked why we can't get corporations to provide more funding. Experience shows us that children's television depends upon a mix of funders—government, foundations, corporations and individuals. It routinely takes our staff three or more years to put this mix together. Corporate support is essential to any funding strategy, but it's very difficult to obtain this support for children's programming. The truth is, there aren't many financial advantages to investing in children's television. Corporations have little to gain other than good will. Those corporations which do invest provide only partial funding, and often bow out after a year or two.

Our newest series, *Carmen Sandiego*, is a case in point. We were fortunate in getting two corporate underwriters. But this money came in after *Carmen* was ready for broadcast. Corporations are rarely willing to give us seed money—in effect, invest in something that only exists on paper. Yet it took us three years, and close to one million dollars, to develop *Carmen*. We needed, and thankfully got, federal funds which enabled us to do the research, work with curriculum advisors and the National Geographic Society, and produce and evaluate a pilot program. If federal startup money hadn't been available, *Carmen Sandiego* would not be on the air. It's that simple.

I was invited here today because I am a television executive. But I also want to speak to you as a mother. My son is 10 years old. Like most parents in this country I have experienced enormous disappointment in some of the major institutions serving our children. The public schools and television are two of these institutions. As a mother who needs to work, I cannot hope to fully compensate for crowded classrooms and underpaid teachers—nor is it possible to eliminate television from my son's life.

That's because television is—after family and, I would argue, before school—most children's primary window on the world. The average 11 year-old watches more than 4 hours of television every day. They may have difficulty reading or writing, but when it comes to TV, children are precocious and passionate. At WGBH we accept that children love television, but we try to take their passion and direct it toward something worthwhile. We know we must entertain children, and we do, but our mission is to inspire, challenge and motivate.

When federal funds come to WGBH, it's not just Massachusetts viewers who benefit, but viewers in every state of the country. Our children's programs are distributed through the public broadcasting service, and reach 98% of America's households. But federal dollars not only help us produce programs, they allow us to increase their educational impact. Every program we produce comes with a variety of curriculum materials—from teacher's guides and activity books to interactive video discs and home computer programs. Over the years, we've received thousands of letters from teachers and librarians, describing their success in using these materials. They tell us that our programs motivate even the most apathetic students.

Federal dollars have even helped us launch a ground-breaking effort to increase literacy and strengthen families. It's called the family literacy alliance, and it uses children's programming to stimulate an interest in reading and writing. We've taken *Long Ago and Far Away* to some of the neediest children in this country—children whose parents are in prison, in homeless shelters, in hospitals. I can't tell you how moving it is to see mothers and children watching the series, discussing the stories, reading together for the first time in their lives.

I want to close by saying how pleased we are that you're preparing legislation to increase government funding for children's television. We've spent more than seven years trying to find new and creative ways to fund children's programs. We've held conferences, talked to experts, hired consultants. What we always come back to is the absolute necessity of receiving government support. Thank you for turning your attention to this crucial issue. I'll be glad to answer any questions you may have.

THE CARNEGIE FOUNDATION
FOR THE ADVANCEMENT OF TEACHING,
Princeton, NJ, August 4, 1992.

Hon. EDWARD M. KENNEDY,
U.S. Senate, Senate Russell Office Building, Washington, DC.

DEAR SENATOR KENNEDY: I enthusiastically support your proposed legislation, the Ready to Learn Television Act. If enacted, this bill could contribute significantly to the school readiness of children—the nation's first education goal. Kindergarten teachers report that more than one-third of the nation's children come to school not well prepared to learn. Your legislation is a bold constructive response to this crisis.

Parents are the first and most essential teachers, but television is profoundly influential, too. The reality is that the nation's nineteen million preschoolers watch billions of hours of TV every year. What they see is often more degrading than enriching.

In our recent Carnegie Foundation report, *Ready to Learn: A Mandate for the Nation*, we cite television's negative impact on children. But we also celebrate successes—like Sesame Street—that contribute positively to the lives of preschoolers. We conclude that if all children are to come to school well prepared to learn, television has a crucial role to play.

Asking commercial stations to offer one hour of children's programming every day is a good beginning. I'm especially pleased that your legislation also supports our proposed Ready to Learn Children's Channel. We have cable channels for weather, sports, news, comedy, and for selling jewelry. Is it unthinkable that this nation could have one channel dedicated exclusively to little children?

Again, I applaud the Ready to Learn Television Act—a creative new initiative that would help the children, improve the schools, and contribute to the building of a better nation.

Cordially,

ERNEST L. BOYER,
President.

READY TO LEARN

(By Ernest L. Bayer)

THE FIFTH STEP: TELEVISION AS TEACHER

In the summer of 1938, essayist E. B. White sat in a darkened room and watched transfixed as a big electronic box began projecting eerie, shimmering images into the world. It was White's introduction to television and in response he wrote: "I believe television is going to be the test of the modern world, and that in this new opportunity to see beyond the range of our vision, we shall discover either a new and unbearable disturbance of the general peace or a saving radiance in the sky. We shall stand or fall by television—of that I am quite sure."[1]

Next to parents, television is, perhaps, a child's most influential teacher. We therefore recommend in this chapter that parents guide the viewing habits of their children. We urge as well that commercial networks air at least one hour of children's programming every week, with school-readiness messages interspersed. Third, we propose that a

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Footnotes at end of article.

Ready-to-Learn Cable Channel be created and, finally, that a national conference be convened to explore how, during the decade of the nineties, television can contribute to the educational enrichment of preschool children.

The amount of time children spend watching television is awesome. A six-month-old infant, peering through the rails of a crib, views television, on average, about one and a half hours every day. A five-year-old watches an hour a day more. By the time the child sets foot in a kindergarten classroom, he or she is likely to have spent more than four thousand hours in front of this electronic teacher. All told, the nation's nineteen million preschoolers watch about fourteen billion hours of television every year.[2]

Television sparks curiosity and opens up distant worlds to children. Through its magic, youngsters can travel to the moon or the bottom of the sea. They can visit medieval castles, take river trips, or explore imaginary lands. Researcher Genevieve Clapp wrote, "Television has opened to children worlds that have been inaccessible to previous generations. Science, history, literature, music, art, and life in other countries are available at the press of a button."[3]

Television began with such promise. In the November 1950 issue of Good Housekeeping one enthusiastic mother wrote: "By and large I think that television is Mama's best friend * * * [and] Kukla, Fran, and Ollie are one cogent reason. * * * [Television] widens horizons. Surprisingly often, it brings into the home good plays, competently acted."[4] Further, this mother noted, an inspired television teacher, Dr. Roy K. Marshall, talks about "earthquakes, the solar system, nuclear fusion. * * * Seeing what he can accomplish in fifteen minutes proves the great potentialities of television in the field of education."

No one can deny television's great potential, but over the past thirty years, commercial television's great promise has faded from the screen. This multibillion dollar industry has decreed that the airwaves are overwhelmingly for adults, not children. What today's children actually encounter every weekday afternoon is not Kukla, Fran, and Ollie or a latter-day "Dr. Marshall," but enough soap operas to flood a laundromat. Edward Palmer, author of Television and America's Children, has said "* * * It is economically irresponsible that we fail to use television fully and well to help meet nationwide educational deficiencies in all key school subjects."[5]

On Saturday morning, during the so-called "children's hour," youngsters are served a steady diet of junk-food commercials[6] and cartoons that contain, on average, twenty-six acts of violence every sixty minutes.[7] Newton N. Minow, former chairman of the Federal Communications Commission, recently described television as "the most important educational institution in America. All of television is education," he said. "The question is, what are we teaching and what are we learning?"[8]

According to kindergarten teachers, children are learning precisely the wrong things, and the blur of images shortens attention span and reduces learning to "impressions." One teacher remarked: "I feel I have to tap dance to keep their interest. Just lecturing is a sure groaner. Students just want to be passive viewers. It's frustrating to have to be ABC, CBS, and NBC when I really want to be PBS and NPR." Another observed, "TV watching must be curbed. Kids no longer know how to play basic kid games." A third wrote: "Television has taught children about 'Ninja Turtles,' but they have no idea what real turtles are. TV is a shocking case of child neglect."

Psychologist Daniel Anderson, after exhaustively examining the research about television's impact on the mental development of children, concludes: "Although there are questions about the degree, there's no question that television promotes violent behavior. Kids do absorb messages from television shows, but that doesn't make them good judges of the messages they're absorbing. Right now, they're showing kids a lot of violent behavior and that's reflected in kids' attitudes and outlooks."[9] A teacher told us: "I really believe that TV-watching stimulates aggressive behavior and decreases the ability of children to play together without some form of fighting."

Inga Sonesson, a sociologist at Sweden's University of Lund, monitored the behavior and television-viewing tastes of two hundred children over a ten-year period. "We found," she wrote, "a clear and unmistakable statitical correlation between excessive television and video viewing on the one hand and the development of antisocial behavior and emotional problems on the other." Sonesson reported that six-year-olds who watched less than two hours of television daily were far less likely than those who watched more to develop learning difficulties or emotional problems. As to those who logged more television time, she noted: "Teachers reported that these were the children who were more aggressive, more anxious, and had greater problems maintaining concentration."[10]

Television's impact on children depends, in large measure, on whether parents control the dial. Most programs simply are not meant for little children, yet, in many homes, the television is on all day long. According to a Harvard University study, 70 percent of today's parents feel that children are watching too much television. Although 40 percent of parents believe that such viewing has a negative effect on their kids, pediatricians at the University of California found that barely 15 percent of parents with children between the ages of three and eight actually guide their children in selecting programs (table 11). Two-thirds do not frequently discuss program content with their children, and 68 percent often use television to "entertain."[11]

Table 11.—Parental Involvement in children's television viewing

	Percent
Parent who guide their children's selection of programs	15
Parents who frequently discuss programs with their children	38
Parent who use TV as children's entertainment	68

Source.—Howard Taras et al., "Children's Television-Viewing Habits and the Family Environment," American Journal of Diseases of Children, vol. 144 no. 3 (March 1990): 359.

Occasionally, parents do set rules; some have even banned television altogether. A national campaign called "TV Busters," launched by a teacher in Plymouth, Minnesota, asks students to stop watching television for twenty days—except for news and educational programs—and to keep a record of what they do instead. The results are fascinating. When the television is turned off children spend more time "riding bicycles," "playing soccer," or "raking leaves with their fathers." Others read. To date, 37,000 children in 154 schools in 39 states have become "TV Busters." This project has been endorsed by Minnesota Governor Arne Carlson, who last year proclaimed one week in October "TV Buster Week." Why not try this in every state?

With selective viewing, television can contribute richly to school readiness. But for this to happen parents must be well informed and must guide the viewing habits of their children just as they control decisions about eating and sleeping. Peggy Charren, founder of Action for Children's Television, has been an articulate, effective voice for parent involvement. "PBS has made preschool programming a focus of their efforts," she said, "but outreach programs for audience development have not been funded. Parents and caregivers have to know about the new programs and turn them on for their children. Parents need to know about the videos that are made just for kids."[12] Charren suggests that libraries and Head Start programs provide information about children's programming.

Clearly, more and better guidance is required. We recommended, therefore, that a Ready-to-Learn Television Guide be published, at least monthly, listing programs on both commercial and cable channels of value to preschoolers. Recently, Public Broadcasting Service and forty-three cable companies joined to publish a monthly television guide for junior and senior high school students. The magazine, Cable in the Classroom, which lists programs by topic, is available to schools without charge. Let's expand this idea and create a guide for preschoolers.

ABC publishes the "ABC Learning Alliance," which is designed to "make television a true partner in learning."[13] Targeted to teachers, librarians, parents, and students, the planner describes new television programs of special interest to young people and their families. Suggested grade levels and content areas are listed, along with ideas for using television in the classroom. ABC also offers a viewer's guide for its successful "Afterschool Special," a series that deals with contemporary issues. The guide includes questions for group discussion plus a list of relevant books on the topic recommended by the American Library Association. Likewise, other commercial stations as well as PBS have prepared viewer guides to special programs. These publications, designed for teachers and parents of older students, suggest the kind of guide that's needed for preschoolers.

Parental guidance is imperative, but better children's programming is needed, too. The television industry simply must acknowledge the powerful impact television has on children and accept its responsibility to its youngest audience. Tricia McLeod Robin, president of the National Council for Families and Television, says "parents are desperate for help and television should not just be a partner in the ready-for-school campaign; it should be the leader."

Will this be the decade when television's early promise as a "saving radiance" for children is finally fulfilled?

The Federal Communications Act of 1934 sought to ensure that the airwaves would serve the best interests of all people, including children.[14] But since then, only a few truly creative steps have been taken on the commercial networks. For years, "Ding Dong School" and "Captain Kangaroo" greeted millions of little children, who heard good conversation, learned exciting lessons about life, and were enthralled that someone was talking directly to them. Sadly, these "ready-to-learn" programs fell victim to a "bottom line" mentality. Profits were placed ahead of children. It is inexcusable

that, today, no commercial network airs a single regularly-scheduled educational program for children.

PBS, on the other hand, has been more attentive to young viewers. For over a quarter of a century, "Sesame Street" has led the way. Joan Ganz Cooney, who started this remarkable program in 1968, said that the aim of "Sesame Street" was "to promote the intellectual and cultural growth of preschoolers."[15] Featuring Jim Henson's Kermit the Frog, Big Bird, the Cookie Monster, and a host of creative personalities both real and imagined, "Sesame Street" is today viewed by millions of children in more than 80 countries. This historic, pioneering effort has contributed dramatically to school readiness, and, as a splendid program, enhances learning, especially of the basic skills.

"Mister Rogers' Neighborhood" also illustrates television's "promise fulfilled." Children who spend time with Mister Rogers develop feelings of self-worth, better understand their world, learn essential skills and stretch their imaginations. They're more likely to help another child.[16] A recent study at day-care centers in Ohio found that "Mister Rogers' Neighborhood" helps children become more cooperative, self-confident, and creative. Viewers, they found, are less aggressive than nonviewers and make greater gains in verbal skills. Teachers also noted that children become better conversationalists after viewing Mister Rogers.[17]

More good news: The Corporation for Public Broadcasting recently announced funding for a new thirty-minute preschool series, "The Puzzle Factory," which will teach socialization and life skills. Slated to air by 1993, "The Puzzle Factory" will feature multicultural puppets at work in a make-believe puzzle workshop, whose stories will encourage children to make choices, take risks, and experiment.[18] Celebrity guest stars, animal mascots, and a variety of other characters will appear. According to executive producer Cecily Truett: "This is a people show, and these are "human being' lessons. The essence of this program is that people are individuals. Each of us is unique."[19]

"Reading Rainbow," another PBS program, introduces young television viewers to a book, presenting the story in rich detail. Several years ago, "Ramona," a series based on the stories of award-winning children's author Beverly Cleary, won rave reviews and a huge following. "Shining Time Station," another award-winner, featured former Beatle Ringo Starr as a train conductor. Action for Children's Television describes the show as "basic life lessons gently taught in an enchanted setting." "Long Ago and Far Away," a series featuring children's literature from foreign countries, included shows based on The Pied Piper of Hameline, The Wind in the Willows, and Russian folktales. The response was tremendous: teachers deluged WGBH in Boston with requests for its teacher's guide.

"Barney and Friends," a new program for preschoolers scheduled for spring of 1992, features a big purple dinosaur who has adventures with his young friends in a day-care playground and classroom. Two Dallas mothers on extended maternity leave created "Barney" when they found it impossible to find good programs for their own kids. Shari Lewis's "The Lamb Chop Play-Along" is also scheduled to premiere soon. The show is designed to encourage young children to sing, count, rhyme, and hop along with Shari and Lamb Chop.

PBS surely has been a pacesetter in children's programming. Still, commercial networks, which profoundly influence the lives of so many children, also have a role to play in helping America achieve its education goal. We recommend, therefore, that each of the major commercial broadcast networks—CBS, NBC, ABC, and Fox—offer, at an appropriate time, at least one hour of educational programming every week. Is it too much to ask each network to devote just sixty minutes of quality television every week to children?

The Children's Television Act, landmark legislation passed by Congress in 1990, signals hope. As a condition of license renewal, the new law directs stations to provide programming specifically designed to serve children, limits the amount of advertising time, establishes procedures for public accountability, and relies heavily on citizens to monitor local stations to assure compliance. Action for Children's Television has prepared a video—"It's the Law!"—to encourage just such community involvement. PBS commentator Bill Moyers declared: "If the Children's Television Act does not make a difference, we will have lost perhaps the last opportunity to save children from mindless mass communications. * * *"

A National Endowment for Children's Educational Television also has been created. We urge that Congress increase appropriations to the endowment to $20 million to fund high-quality programs, especially for preschoolers. Further, manufacturers of children's products—such as toys, cereals, and fast foods—should devote at least some of their profits to educational television. Recently, the Ronald McDonald Family Theater presented "The Wish That Changed Christmas," based on Rumer Godden's The Story of Holly and Ivy. Host Ronald McDonald made live appearances during breaks to reinforce story ideas and to encourage families to discover books at their local libraries. Linda Kravitz, assistant vice-president for marketing at McDonald's, says: "With literacy in America becoming an increasingly important issue, we believe that encouraging kids to read more is an appropriate role for McDonald's." This illustrates precisely what we propose.

The new Act also limits commercials in children's programs to ten and a half minutes each hour on weekends, and twelve minutes weekdays. Cutting commercial time may reduce the bad, but fail to advance the good. While older children show less interest in commercials, three- and four-year-olds often show an increase in attention.[20] And what do they see? According to one observer, "A child watching television programs for children sees ads for sugared cereals, candy, snack foods, and sugared drinks in an unceasing barrage and learns nothing of the essentials for a balanced diet."[21] Peggy Charren explains the dilemma best: "* * * it seems abundantly clear that almost everyone in the television business is still trying to figure out how to benefit from children instead of how to benefit children."[22]

While focusing on the length of commercials, let's also consider content. Specifically, every sixty-minute segment of children's programming on commercial networks should include at least one Ready-to-Learn message addressing the physical, social, or educational needs of children. Why not have colorful segments on nutrition, exercise, and exciting books? Why not illustrate highlights from history, interesting scientific facts, or lessons on social confidence and getting along with others? Why not feature a kindergarten teacher describing a child's first day at school?

Commercial networks have occasionally made such a commitment. From 1973 to 1985, for example, ABC aired "School House Rock," innovative mini-programs presented during the Saturday morning cartoon lineup.[23] Through music, rhyme, and animation, children learned about grammar, math, the human body, and American history in five-minute segments called "America Rock," "Multiplication Rock," "Grammar Rock," and "Science Rock." Millions of viewers, now young adults, still remember the "Conjunction-Junction" song, and the history lessons taught by an animated Thomas Jefferson.

Today, NBC airs "The More You Know," public service messages aimed at parents and children. In ten- and thirty-second spots, celebrities promote learning, parental involvement, teacher appreciation, and discourage students from substance abuse.[24] Children's Action Network and the American Academy of Pediatrics recently prepared "commercials" aimed at parents. They feature Robin Williams and Whoopi Goldberg, who urge parents to have their children immunized. Possibilities for ready-to-learn messages like these are almost limitless.

Cable television, a powerful, fast-growing part of the industry, also offers great possibilities for the education of young children. We have cable channels devoted exclusively to sports and weather, sex, rock music, health, and around-the-clock news. Why not have one cable channel devoted solely to preschool children—at least one place on the TV dial parents could turn to with confidence, one reliable source of enriching programming all day long? Further, with a Ready-to-Learn channel, day-care directors and preschool teachers could incorporate TV programming into their daily schedules.

Cable channels do occasionally focus on young children. The Disney Channel, for example, features "Under the Umbrella Tree," which teaches preschoolers to use the telephone and doorbell, share with their friends, and help others. "You and Me, Kid" deals with parent-child relationships, and such classics as "Winnie the Pooh," "Babar," and "Pinocchio" make up Disney's preschool line-up. Nickelodeon offers a two-hour block to preschool programs each day, from 10:00 a.m. to noon. "Eureeka's Castle" includes puppets, comedy, music, and adventure. "Sharon, Lois & Bram's Elephant Show" takes its little viewers on adventure trips accompanied by an elephant. "Fred Penner's Place" uses stories, songs, and games to entertain and educate. On the Discovery Channel, children travel to distant places and learn about animals and their habitats. The Learning Channel program "Castles" uses animation and live action. The colorful photography and clear narration capture young viewers.

The Lifetime channel recently began airing "Your Baby and Child with Penelope Leach," which explores developmental changes in children from birth to preschool. Last fall, the Family Channel presented a one-hour special called "Discovering the First Year of Life," and features "American Baby" and "Healthy Kids" on alternate weekday afternoons. Lifetime also features pediatrician T. Berry Brazelton in "What Every Baby Knows" and "An American Family Album," that focus on such issues as discipline, fears, working moms, preparing for a baby, and the child's transition to preschool. "Families need value systems they can believe in," says Brazelton. "This series will

give us a chance to identify value systems in different groups around the country so that parents will have some choices."

Locally produced shows also can be enriching. WCVB in Boston has created "Captain Bob," a grandfatherly man who teaches children to draw and appreciate the environment. "Jabberwocky" uses actors and puppets to entertain and educate three- to six-year-olds each week. "A Likely Story," the newest of WCVB's productions, follows a librarian and her bookmobile on adventures through "The Magic Book," encouraging four- to eight-year-olds to read. WRLK in Columbia, South Carolina, another exceptional station, produced "The Playhouse," a six-part series that emphasizes self-esteem, and "Let's Play Like," a series devoted to imagination. The pilot program recently won a "Parents' Choice" award.

Most encouraging, perhaps, is the way technology itself is changing, offering new power to parents and new learning possibilities to children. Satellites, fiber optics, and laser disks will also be tomorrow's teachers, and videocassettes are already providing learning possibilities for preschoolers. With videocassettes, parents can stop the show for discussion and repeat segments. Excellent titles for children exist and new ones are regularly being added. Bowker's Complete Video Directory 1990 devoted an entire volume to educational videos, many for preschoolers. Further, most libraries have video collections and the American Library Association publishes a brochure entitled, "Choosing the Best in Children's Video." We suggest that every library create a special ready-to-learn video section, so parents can easily identify appropriate titles.

With a dash of optimism, we can see the nineties as a decade when television's promise to our children finally is fulfilled. What is needed now, we believe, is a more coherent policy established not just by government but by concerned citizens and committed leaders in the industry itself. Specifically, we recommended that a National Ready-to-Learn Television Conference be convened. The proposed forum should identify issues vital to children's programming and develop strategies to improve its quality. The promise is to enrich the lives of all children, to give them an exciting new window to the world, with worlds and sounds and pictures that dramatically enhance their school readiness. Newton Minow recently said: "A new generation now has the chance to put the vision back into television, to travel from the wasteland to the promised land, and to make television a saving radiance in the sky."[25] We could not agree more.

FOOTNOTES

[1] E.B. White, "One Man's Meat," Harper's Magazine, vol. 177 (1938), 553.

[2] If nineteen million preschools watch roughly two hours a day times 365 days a year, they watch 14 billion hours of television a year; see Robert M. Liebert and Joyce N. Sprafkin, The Early Window, 3rd ed. (Elmsford, NY: Pergamon Press, 1988), 5.

[3] Genevieve Clapp, Child Study Research: Current Perspectives and Applications (Lexington, MA: Lexington Books, 1988), 71–72.

[4] Bianca Bradbury, "Is Television Mama's Friend or Foe?" Good Housekeeping, November 1950, 58.

[5] Personal communication; see also Edward Palmer, Television and America's Children: A Crisis of Neglect (New York: Oxford University Press, 1988).

[6] "Content Analysis of Children's Television Advertisements," The Center for Science in the Public Interest (Washington, DC; May 1991), reports that over 200 commercials for high-sugar and high-fat junk food appear each Saturday morning.

[7] Diane Radecki, "Cartoon Report," The National Coalition on Television Violence (Champaign, IL; April 1991).

[8] Newton N. Minow, "How Vast the Wasteland Now?", speech, Columbia University, New York, 9 May 1991 (New York: Gannett Foundation Media Center, 1991), 13.

[9] Daniel R. Anderson testified before the U.S. Senate in the April 12, 1989 hearings on "Education, Competitiveness, and Children's Television"; also, he has written with Patricia A. Collins, "The Impact of Children's Education: Television's Influence on Cognitive Development," U.S. Department of Education, April 1988.

[10] Inga Sonession, Förskolobarn och TV [Elementary School children and television], (Stockholm: Esselte Studium, 1979), 206–208.

[11] Howard Taras et al., "Children's Television-Viewing Habits and the Family Environment," American Journal of Diseases of Children, vol. 144, no. 3, March 1990, 357–359.

[12] Personal communication, Peggy Charren, December 1991.

[13] "ABC Learning Alliance: Back-To-School Planner" (New York: ABC Community Relations, CIStems, Inc., 1991).

[14] Liebert and Sprafkin, The Early Window (New York; Pergamon Press, 1988), 41.

[15] Ibid., 219.

[16] Ibid., 232.

[17] Extending "The Neighborhood," to Child Care, Public Broadcasting Foundation of Northwest Ohio, Toledo, 1991, 102.

[18] CPB Report, 18 November 1991, vol. 10, no. 23 (Washington, DC; Corporation for Public Broadcasting).

[19] John Wilner, "Preschool Series to Teach Life Skills," Current: The Public Telecommunications Newspaper, 18 November 1991, 7.

[20] Liebert and Sprafkin, The Early Window, 166.

[21] Ibid., 12.

[22] Peggy Charren, ACT: The First 20 Years, 1988, Action for Children's Television, 1.

[23] Personal communication, Capital Cities/ABC., Public Relations, network programming department, November 1991.

[24] Personal communication, Marcy Dolan, NBC, December 1991.

[25] Minow, "How Vast the Wasteland Now?"

TESTIMONY OF CAROLYN DORRELL, ECPDN PROJECT DIRECTOR

Mr. Chairman, members of the Committee, thank you for the leadership you bring to this important issue and the attention you focus on our Nation's young children, as well as on those individuals who are dedicated to their care and education. It is indeed welcomed. The legislation you propose is carefully drafted to provide dissemination and programming and I commend your efforts.

Reports by the National Governors' Association, the National Commission on Children, as well as the Children's Defense Fund, unanimously affirm new evidence that successful solutions in educational, as well as, social and economic problems must focus on what happens to the young children and their families.

Solutions must include the care givers and the teachers of young children in the myriad arrangements of child care, from family child care homes to Head Start facilities. The extent of their knowledge in early childhood education will determine the quality of the services they provide.

What are the available resources for both the care providers and parents—resources which give valuable information on the sometimes simple but powerful messages adults send children?

We are here today to discuss one resource that is available—telecommunications. Over 10 years ago, the State of South Carolina looked to the resources of South Carolina Educational Television to help provide urgently needed training in child development, early childhood education, and parenting skills. SC ETV purchased televisions and VCR's, videotaped interviews and presentations, and placed them in child care centers across our State. These tapes are viewed on site by staff and parents, providing the only child care training in many areas. SC ETV also produced for-broadcast programs which were both for teachers and parents, giving them vital information on the care and education of children.

The use of video as a training resource has the benefits of showing the viewer important skills and behaviors which are vital to implementing effective educational settings for young children. Parents and providers gain skills and confidence after seeing positive interactions.

The use of these programs has grown beyond South Carolina through distribution and sponsorship by the National Association for the Education of Young Children. Last year over 11,000 videotapes were distributed nationally on topics such as discipline, curriculum, growth, and development. Users included public and private providers, colleges and universities, and the American Red Cross, who used the programs for cost-effective training at the local level.

With this proven experience, SC ETV was successful in securing funding through a demonstration grant from the U.S. Department of Health and Human Services to take advantage of another step in available technology—satellite delivered, interactive telecommunications. The goal of this project, the Early Childhood Professional Development Network [ECPDN], which is modeled after the successful SERC/Star Schools program, is to deliver training to Head Start teaching teams in rural isolated areas who serve American Indians, Alaskan Eskimos, and instream migrants. The training seminars, which are delivered live, incorporate approved curriculum and practices in exemplary Head Start classrooms. There are also interviews with experts, permitting viewers to interact via telephone. The training program consists of 120 contact hours, with a combination of video seminars and audio discussion sessions. The total program meets the training requirements for a Child Development Associate [CDA] credential that will be required for Head Start teachers. Teachers in these isolated areas would not have access to this critical training without ECPDN.

Through live, interactive technology, Head Start can reach the estimated 10,000 staff who require training each year. ECPDN will enhance local training rather than substitute it.

SERC has proven that telecommunications can be an effective tool in reaching students that otherwise would not have access to specialized courses in math, science, and foreign language. Through South Carolina's ECPDN, we can do the same for child care providers.

South Carolina is implementing ECPDN by using existing satellite receive dishes, some are part of the Star Schools grants—others are located at colleges and universities, public television stations, other local government sites, and Indian colleges. However, even a home satellite dish could be used, allowing smaller groups of families and caregivers to participate.

Using the best and most sophisticated resources that our Nation possesses underscores its value and effectiveness. A few examples of the people taking this training are—three Head Start teachers in Hooper Bay, Alaska, an isolated fishing village on the Bering Sea, three Head Start teachers in a rural area of Mississippi, and teachers at an Indian Pueblo in New Mexico. They can have high-quality training delivered right to their neighborhoods. They will surely feel what they are doing is very important.

While others are examining and expanding more appropriate ways of using television directly with young children, South Carolina's

ECPDN is focusing on the use of interactive telecommunications to deliver the best teachers, educational curriculum, and resources to those who need it the most—child care providers. We're reaching them in Alaskan villages, Native American areas, migrant camps, and rural areas across this Nation. With a small investment, we can extend this training to parents and others who care for children in their homes and community centers.

The goal of Ready to Learn for our children requires not only more direct services to children, but a substantial commitment to a telecommunications infrastructure that is already in place. School readiness for our children is one of the most important investments our Nation can make. Early learning is the template for a successful school experience and educational technologies is our Nation's best chance to provide this experience to as many children as possible.

Mr. Chairman, I thank you for your leadership in addressing this issue with your legislation. I am pleased to take any questions you may have.●

Mr. PELL. Mr. Chairman, at the outset of today's hearing, I would like to commend you for your outstanding leadership and initiative in the area of early childhood education. I am pleased to be a cosponsor of this important and potentially far-reaching legislation. What we do in the first years of a child's life has profound and lasting effects on his or her development.

I am sure we would all agree the family is every child's first and most important educator. In this role, television, though cursed by some, has enormous potential to be a positive educational resource. Before the average child steps through a schoolhouse door, he or she has spent over 4,000 hours in front of the television set. Sadly, for most children this time has not been used productively, but in fact, has been detrimental to their cognitive development. With just cause, parents often look at television as an adversary rather than as an aide in the education process.

We do know, however, of valuable programs such as "Sesame Street" and "Mister Rogers' Neighborhood" which have had a positive influence on countless numbers of children. This type of programming has become increasingly rare, though, because of the bottomline profit demands of most commercial networks. Worse still, this trend seems to be occurring at precisely the time that the need for such programming is growing. Over one-third of all children do not come to school ready to learn, and according to elementary school teachers, the situation is not improving.

The legislation we are introducing today seeks to support the development and distribution of high quality, interactive educational programming. It is a concrete and cost-effective effort aimed at achieving our Nation's first education goal—that all children will begin school ready to learn. I am afraid if we are not successful in reaching this first goal, it will be that much more difficult to reach the others.

Again, I commend the chairman for bringing forth this important legislation. It should be the subject of continued discussion and receive due analysis and consideration. I look forward to working with the chairman on this in the future.

Mr. WELLSTONE. Mr. Chairman, I would first like to welcome the panel of witnesses today. They have all worked hard in their own way toward ensuring that children are as prepared as possible when they enter school. In addition, I would like to commend you, Mr. Chairman, for all your efforts in fighting to better prepare children to enter school.

Earlier this year I worked hard to make sure the Corporation for Public Broadcasting received necessary funding for its fine programming. Unlike any other television station, PBS provides invaluable commercial-free educational programming for children and adults alike. Chairman KENNEDY's proposal to enable the Secretary of Education, in conjunction with public television stations, to distribute educational video programs on a satellite channel will indeed enhance public broadcasting programming.

Television is one of the most powerful communication tools we have—it should be used to pursue higher goals than just entertainment and commercial purposes. I cannot think of a better use for television than as a teacher. With the large amount of television that children watch these days, television could prove to be one of a child's most influential teachers next to his or her parents.

Most American households own a television thus it reaches most families and children without distinguishing between rich or poor or black or white. As inequity among schools and school districts becomes wider and wider, television has the potential to help equalize kids and their educational opportunities.

I must say, however, the use of television and videos certainly should not be the only way in which we help better prepare our children to enter school, but is a powerful option and is one way to start addressing this essential need that the government has ignored for too long.

One of the major problems our educational system faces is the fact that children go to school unprepared to learn. As Congress addresses essential, and long overdue, improvements to our educational system, one of the first and foremost problems to address should be preparing our children to enter school ready and eager to learn. If children begin school with basic educational tools they are much more likely to succeed in school, and, therefore, contribute positively to our economy and lead healthy and productive lives.

Mr. INOUYE. I want to thank the distinguished chairman and ranking member of this committee for inviting me to testify here today. The subject of this hearing, the use of television for education, is a subject that I have been deeply involved in for many years, as chairman of the Communications Subcommittee, as a parent and as a citizen concerned about the future of our children and this great Nation.

Educating this Nation's children is one of our highest priorities. It is personally of great concern to me. Our children are our future and our future is in grave danger. Twenty-three million Americans are illiterate and another 30 million are semi-literate, lacking skills beyond the eighth grade level. This number increases by approximately 1.6 million annually. One out of every eight 17-year-olds is illiterate. Twenty percent of all American workers are illiterate. Illiteracy costs approximately $240 billion annually in lost productivity, crime, accidents, employee errors, training programs, welfare assistance and remedial education programs.

The most effective way to address this problem is to start with our children. Our children are this Nation's most valuable resource, and we need to pay special attention to their needs. Child by child, we build this Nation, and we need to ensure that they are equipped to meet this enormous responsibility.

Children, especially young children, watch television a great deal. You are all familiar with the startling statistic that by the time a child graduates from high school, he or she will have spent more time in front of the television set than in the classroom. American children spend anywhere from 11 to 28 hours a week watching television in their homes. By the time most children reach the age of 18, it is estimated that they will have watched between 15,000 and 20,000 hours of television, while they will have spent less than 13,000 hours in school. Television is thus the child's window to the world. To some reasonable extent, it should not only entertain, but also inform and educate.

At the same time that our children are watching more television, we place an extraordinary load upon the shoulders of our teachers. At one time teachers were highly respected members of the community; unfortunately that is no longer true. Teachers used to be well paid, but they are no longer, especially in comparison to the job we ask them to do. And, today we want them to be, in addition to a teacher, a baby-sitter, a substitute parent, a disciplinarian and much more.

We must invest in our future by devoting more resources to reach youngsters in their prime learning ages. There is an abundance of evidence that technology can be very effective in supplementing children's education both at home and in school. Bridging

the separation between student and teacher through distance learning makes the potential for education limited only by one's imagination.

Public television is one example of how our Federal support can be used to promote the use of television for education. For 30 years, public TV stations have provided their local schools and State educational institutions with technical expertise and quality programs to supplement classroom instruction. Local stations and PBS are harnessing the power of television to improve educational opportunity across the country. Public television reaches over 29 million students in nearly 70,000 schools, grades K through 12, and 1.8 million teachers use public television's educational services. Annually, 1,500 instructional programs, including math and science, are distributed via satellite and many more are distributed by local stations.

Hawaii public television serves as an example of what public broadcasters are doing to serve their communities. Hawaii public television operates the Hawaii Interactive Television Service [HITS], a four-channel, closed circuit, statewide television system used for educational purposes, training, and management conferences. The University of Hawaii offers 60 hours of telecourses and the Hawaii Department of Education offers 35 hours of educational programming on HITS. The HITS system is also used to provide child care training for the Sesame Street preschool project, which is designed to increase the impact of Sesame Street's educational and social messages. HITS is also used by senior citizens to communicate with each other on the other islands.

Public television is not the only provider of educational television programming. In fact, virtually every State has one or more programs using a television, cable, computers, and/or telephones systems to supplement and expand the educational offerings available to students and residents.

The Communications Subcommittee of the Committee on Commerce, Science, and Transportation, held a hearing on the use of telecommunications technology and education last week. There was general agreement that while the use of telecommunications technologies in education is increasing in schools, universities, and homes, there remains a great deal to be done before we reach the goal of using technology to its fullest educational possibilities. There is a need for more programming, equipment, and teacher training.

The legislation authored by the chairman contains provisions to address each of those issues and therefore represents an important step in our efforts to expand the use of television as a teacher. I support the goals of this legislation and hope that we can build on this next Congress to develop a comprehensive plan to more effectively use our limited Federal resources to promote the use of television and other telecommunications technologies for education. In closing, I want to commend the chairman for his initiative and look forward to working with him to achieve our common goals.●

● Mr. COCHRAN. Mr. President, today, I am pleased to join the distinguished Senator from Massachusetts [Mr. KENNEDY] in introducing the Ready to Learn Television Act.

It is alarming that more than 37 percent of 9-year-olds in the United States "lack basic reading skills," according to the most recent Reading Report Card from the National Assessment of Educational Progress.

If we are to make sure that all students meet the six national education goals by the year 2000, we have to start as early as possible in a child's life to fill their natural curiosity and motivation to learn with quality learning experiences.

Today, television is in many instances the most powerful teacher a young child has. In busy households with both parents working, in single parent homes, and crowded daycare facilities, with underskilled providers, television fills a gap created by today's lifestyles.

Public television programs like "Sesame Street" and "Reading Rainbow" have offered young children quality educational programming for over 25 years. But it is time to do more in this area. By taking advantage of the significant number of hours of television most children watch every day, we have a wonderful opportunity to build a foundation for future learning. I believe it is appropriate for the Department of Education to take a more active role in supporting the development of educational television materials.

This bill establishes a partnership between the U.S. Department of Education and the Corporation for Public Broadcasting to develop criteria for educational television programming targeted to the preschool audience, which will then be used as guidelines for the solicitation and selection of projects to be funded. This strategy draws on the strong commitment of Secretary Alexander to support early childhood education and the Corporation for Public Broadcasting's years of expertise in providing young children with quality educational television.

In rural States, like Mississippi, educational television has traditionally helped to offer students opportunities to learn that would not otherwise be available. In fact, Mississippi ETV currently offers six educational networks, providing more than 65 hours of educational programming each day for students, teachers, individuals, and families. On average, Mississippi's elementary and secondary schools offer 7 hours of various course instruction every school day. This bill will expand the educational programming available to preschool children.

Another strong component of this bill is that it will offer parents, teachers, libraries, and daycare providers with specially designed supporting materials to enhance the value of the television programming. The bill authorizes $50 million for the development and dissemination of quality preschool educational programs for public television. It is my hope that this Federal investment will encourage and leverage greater corporate and other private support for more good television for the youth of America.

I urge Senators to support this bill.●

● Mr. WELLSTONE. Mr. President, I am pleased to join the distinguished chairman of the Labor and Human Resources Committee, Senator KENNEDY, and other members of his committee, in introducing the Ready to Learn Television Act of 1992.

Earlier this year I worked hard to make sure the Corporation for Public Broadcasting received necessary funding for its fine programming. Unlike any other television station, the Public Broadcasting System, funded through the Corporation for Public Broadcasting, provides invaluable commercial-free educational programming for children and adults alike. The Ready to Learn Television Act of 1992 would enable the Secretary of Education, in conjunction with public television stations, to distribute educational video programs on an educational satellite channel and will indeed enhance public broadcasting programming.

Television is one of the most powerful communication tools we have—it should be used to pursue higher goals than just entertainment and commercial profits. I cannot think of a better use for television than as a teacher. With the large amount of television that children watch these days, television could prove to be one of a child's most influential teachers next to his or her parents.

Most American households own a television, and thus it reaches most families and children without distinguishing between rich or poor or black or white. As inequity among schools and school districts becomes wider and wider, television has the potential to help equalize kids and their educational opportunities.

I must say, however, the use of television and videos certainly should not be the only way in which we help better prepare our children to enter school, but it is a powerful option and is one way to start addressing this issue that the Government has ignored for too long.

One of the major problems our educational system faces is the fact that children go to school unprepared to learn. As Congress addresses essential,

and long overdue, improvements to our educational system, one of the first and foremost goals to address should be making sure our children are fully prepared to enter school ready and eager to learn. If children begin school with basic educational tools, they are much more likely to succeed in school, and, therefore, contribute productively to our economy and lead healthy and productive lives. After all, the children of today will determine the health and vitality of our country tomorrow.●

ADDITIONAL COSPONSORS

S. 264

At the request of Mr. MCCAIN, his name was withdrawn as a cosponsor of S. 264, a bill to authorize a grant to the National Writing Project.

S. 316

At the request of Mr. CRAIG, the names of the Senator from Wisconsin [Mr. KASTEN] and the Senator from Missouri [Mr. DANFORTH] were added as cosponsors of S. 316, a bill to provide for treatment of Federal pay in the same manner as non-Federal pay with respect to garnishment and similar legal process.

S. 564

At the request of Mr. MCCAIN, his name was withdrawn as a cosponsor of S. 564, a bill to direct the Secretary of Defense to undertake the development and testing of systems designed to defend the United States and its Armed Forces from ballistic missiles.

S. 781

At the request of Mr. SARBANES, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 781, a bill to authorize the Indian American Forum for Political Education to establish a memorial to Mahatma Gandhi in the District of Columbia.

S. 878

At the request of Mr. MCCAIN, his name was withdrawn as a cosponsor of S. 878, a bill to assist in implementing the Plan of Action adopted by the World Summit for Children, and for other purposes.

S. 922

At the request of Mr. DASCHLE, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 922, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income payments made by electric utilities to customers to subsidize the cost of energy conservation services and measures.

S. 1012

At the request of Mr. MCCAIN, his name was withdrawn as a cosponsor of S. 1012, a bill to authorize appropriations for the activities and programs of the National Highway Traffic Safety Administration, and for other purposes.

S. 1361

At the request of Ms. MIKULSKI, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 1361, a bill to remedy the serious injury to the United States shipbuilding and repair industry caused by subsidized foreign ships.

S. 1451

At the request of Mr. BIDEN, the name of the Senator from Georgia [Mr. FOWLER] was added as a cosponsor of S. 1451, a bill to provide for the minting of coins in commemoration of Benjamin Franklin and to enact a fire service bill of rights.

S. 1673

At the request of Mr. MCCAIN, his name was withdrawn as a cosponsor of S. 1673, a bill to improve the Federal justices and judges survivors' annuities program, and for other purposes.

S. 1838

At the request of Mr. PRYOR, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 1838, a bill to amend title XVIII of the Social Security Act to provide for a limitation on use of claim sampling to deny claims or recover overpayments under Medicare.

S. 1931

At the request of Mr. STEVENS, the names of the Senator from Kentucky [Mr. FORD] and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of S. 1931, a bill to authorize the Air Force Association to establish a memorial in the District of Columbia or its environs.

S. 1993

At the request of Mr. CONRAD, the names of the Senator from South Dakota [Mr. DASCHLE], the Senator from Minnesota [Mr. WELLSTONE], the Senator from Montana [Mr. BAUCUS], the Senator from Washington [Mr. GORTON], the Senator from Washington [Mr. ADAMS], and the Senator from Idaho [Mr. CRAIG] were added as cosponsors of S. 1993, a bill to improve monitoring of the domestic uses made of certain foreign grain after importation, and for other purposes.

S. 1996

At the request of Mr. ROCKEFELLER, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 1996, a bill to amend title XVIII of the Social Security Act to provide for uniform coverage of anticancer drugs under the Medicare Program, and for other purposes.

S. 2062

At the request of Mr. KENNEDY, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 2062, a bill to amend section 1977A of the Revised Statutes to equalize the remedies available to all victims of intentional employment discrimination, and for other purposes.

S. 2116

At the request of Mr. RIEGLE, the names of the Senator from Hawaii [Mr. INOUYE], and the Senator from Colorado [Mr. WIRTH] were added as cosponsors of S. 2116, a bill to improve the health of children by increasing access to childhood immunizations, and for other purposes.

S. 2134

At the request of Mr. MCCAIN, his name was withdrawn as a cosponsor of S. 2134, a bill to provide for the minting of commemorative coins to support the 1996 Atlanta Centennial Olympic Games and the programs of the U.S. Olympic Committee.

S. 2304

At the request of Mr. SIMON, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 2304, a bill to amend title 18, United States Code, to permanently prohibit the possession of firearms by persons who have been convicted of a violent felony, and for other purposes.

S. 2340

At the request of Mr. MCCAIN, his name was withdrawn as a cosponsor of S. 2340, a bill to require the transfer of certain closed military installations to the Department of Justice, to transfer certain aliens to such installations, to provide grants to States to assist States and units of local government in resolving certain difficulties relating to the incarceration of certain aliens, and for other purposes.

S. 2385

At the request of Mr. RIEGLE, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 2385, a bill to amend the Immigration and Nationality Act to permit the admission to the United States of nonimmigrant students and visitors who are the spouses and children of U.S. permanent resident aliens, and for other purposes.

S. 2387

At the request of Mr. LEAHY, the name of the Senator from Colorado [Mr. WIRTH] was added as a cosponsor of S. 2387, a bill to make appropriations to begin a phasein toward full funding of the special supplemental food program for women, infants, and children [WIC] and of Head Start programs, to expand the Job Corps Program, and for other purposes.

S. 2484

At the request of Mr. KASTEN, the name of the Senator from Delaware [Mr. ROTH] was added as a cosponsor of S. 2484, a bill to establish research, development, and dissemination programs to assist State and local agencies in preventing crime against the elderly, and for other purposes.

S. 2549

At the request of Mr. MOYNIHAN, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 2549, a bill to establish the Hudson River Artists National Historical Park in the State of New York, and for other purposes.

S. 2644

At the request of Mrs. KASSEBAUM, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 2644, a bill to require the Secretary of Transportation to require passenger and freight trains to install and use certain lights for purposes of safety.

S. 2661

At the request of Mr. MOYNIHAN, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 2661, a bill to authorize the striking of a medal commemorating the 250th anniversary of the founding of the American Philosophical Society and the birth of Thomas Jefferson.

S. 2667

At the request of Mr. HEFLIN, the name of the Senator from Maine [Mr. MITCHELL] was added as a cosponsor of S. 2667, a bill to amend the Federal Food, Drug, and Cosmetic Act to clarify the application of the act with respect to alternate uses of new animal drugs and new drugs intended for human use.

S. 2696

At the request of Mr. DOMENICI, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 2696, a bill to establish a comprehensive policy with respect to the provision of health care coverage and services to individuals with severe mental illnesses, and for other purposes.

S. 2697

At the request of Mr. MCCAIN, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 2697, a bill to provide transitional protections and benefits for Reserves whose status in the reserve components of the Armed Forces is adversely affected by certain reductions in the force structure of the Armed Forces, and for other purposes.

S. 2841

At the request of Mr. D'AMATO, the names of the Senator from Alabama [Mr. HEFLIN] and the Senator from Montana [Mr. BURNS] were added as cosponsors of S. 2841, a bill to provide for the minting of coins to commemorate the World University Games.

S. 2889

At the request of Mr. BOREN, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 2889, a bill to repeal section 5505 of title 38, United States Code.

S. 2914

At the request of Mr. DURENBERGER, the names of the Senator from Idaho [Mr. CRAIG] and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of S. 2914, a bill to direct the Secretary of Health and Human Services to make separate payment for interpretations of electrocardiograms.

S. 2918

At the request of Mr. GRAHAM, the names of the Senator from Colorado [Mr. WIRTH], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Tennessee [Mr. GORE], the Senator from Michigan [Mr. RIEGLE], the Senator from Kentucky [Mr. MCCONNELL], and the Senator from New Mexico [Mr. DOMENICI] were added as cosponsors of S. 2918, a bill to promote a peaceful transition to democracy in Cuba through the application of appropriate pressures on the Cuban Government and support for the Cuban people.

S. 2955

At the request of Mr. WARNER, the names of the Senator from Massachusetts [Mr. KERRY], the Senator from Idaho [Mr. CRAIG], and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of S. 2955, a bill to amend the Internal Revenue Code of 1986 to improve disclosure requirements for tax-exempt organizations.

S. 3003

At the request of Mr. KERRY, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 3003, a bill to amend the Marine Mammal Protection Act of 1972 to authorize the Secretary of State to enter into international agreements to establish a global moratorium to prohibit harvesting of tuna through the use of purse seine nets deployed on or to encircle dolphins or other marine mammals, and for other purposes.

S. 3009

At the request of Mr. DOMENICI, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 3009, a bill to amend title 10, United States Code, to provide for the payment of an annuity or indemnity compensation to the spouse or former spouse of a member of the Armed Forces whose eligibility for retired or retainer pay is terminated on the basis of misconduct involving abuse of a dependent, and for other purposes.

S. 3091

At the request of Mr. GORTON, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 3091, a bill to amend the Public Health Service Act to establish a program to fund maternity home expenses and improve programs for the collection and disclosure of adoption information, and for other purposes.

SENATE JOINT RESOLUTION 242

At the request of Mr. SPECTER, the names of the Senator from Alaska [Mr. MURKOWSKI], the Senator from Missouri [Mr. BOND], the Senator from Colorado [Mr. BROWN], and the Senator from Florida [Mr. MACK] were added as cosponsors of Senate Joint Resolution 242, a joint resolution to designate the week of September 13, 1992, through September 19, 1992, as "National Rehabilitation Week".

SENATE JOINT RESOLUTION 278

At the request of Mr. DODD, the names of the Senator from Ohio [Mr. METZENBAUM], the Senator from Rhode Island [Mr. PELL], and the Senator from Missouri [Mr. DANFORTH] were added as cosponsors of Senate Joint Resolution 278, a joint resolution designating the week of January 3, 1993, through January 9, 1993, as "Braille Literacy Week".

SENATE JOINT RESOLUTION 315

At the request of Mr. SEYMOUR, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of Senate Joint Resolution 315, a joint resolution to designate September 16, 1992, as "National Occupational Therapy Day".

SENATE RESOLUTION 325

At the request of Mr. D'AMATO, the names of the Senator from Ohio [Mr. GLENN] and the Senator from Arizona [Mr. MCCAIN] were added as cosponsors of Senate Resolution 325, a resolution expressing the sense of the Senate that the Government of the Yemen Arab Republic should lift its restrictions on Yemeni-Jews and allow them unlimited and complete emigration and travel.

AMENDMENT NO. 2841

At the request of Mr. D'AMATO his name was added as a cosponsor of amendment No. 2841 proposed to H.R. 5518, a bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1993, and for other purposes.

At the request of Mr. GRAHAM the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of amendment No. 2841 proposed to H.R. 5518, supra.

SENATE CONCURRENT RESOLUTION 133—CONCERNING ISRAEL'S RECENT ELECTIONS AND THE UPCOMING VISIT OF PRIME MINISTER RABIN TO THE UNITED STATES

Mr. AKAKA (for himself, Mr. MITCHELL, and Mr. DOLE) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 133

Whereas the Israeli public recently went to the polls to participate in the only fully free and democratic elections in the Middle East;

Whereas, Israel has faced serious outside threats to her existence since 1948 and has never compromised the democratic system upon which the nation was founded;

Whereas, as a result of democratic elections, a peaceful and orderly transfer of power has taken place;

Whereas the elections and debate leading to them demonstrated to the world the openness and vibrancy of Israeli democracy;

Whereas Israel is actively committed to the absorption of close to one million refugees over the next several years;

Whereas Israel remains committed and engaged in the Mideast peace process and is seeking an acceleration of that process; and

Whereas Israeli Prime Minister Yitzhak Rabin will soon visit the United States: Now, therefore, be it

Resolved by the Senate, (the House of Representatives concurring), That the Congress—

(1) congratulates the citizens of Israel on concluding fair and open democratic elections;

(2) welcomes Prime Minister Rabin to the United States and applauds his statements and actions encouraging active participation in the search for peace; and

(3) calls upon all parties in the region to actively and seriously engage in the peace process.

Mr. AKAKA. Mr. President, today I am joined by the distinguished majority leader, Mr. MITCHELL, and Republican leader, Mr. DOLE, in introducing a resolution recognizing the recent democratic elections in Israel and the visit of Israeli Prime Minister Yitzhak Rabin to the United States next week.

We are all well aware that Israel recently concluded free, open, and democratic elections and that the result was a peaceful and orderly transfer of power. We have come to expect, perhaps even take for granted, full democracy in Israel just as we expect orderly and democratic elections in the United States. We must remember, however, that democracy is the exception, not the rule, in the Middle East.

The elections in Israel serve as a reminder how very unique democracy is in that troubled region. We recall what happened in Algeria following their elections; we remain frustrated by the absence of democracy in Kuwait, a country so many of our men and women in the Armed Forces fought to liberate; and we should not forget the comments of King Fahd of Saudi Arabia earlier this spring, when he stated, "The democratic system prevalent in the world is not appropriate for us in this region."

When the people of Israel went to the polls in June to choose a new government, they continued a tradition, engaged in a solemn civic responsibility, which has endured without interruption since the creation of the State of Israel in 1948. Regardless of the numerous wars aimed at her destruction, despite a constant string of terrorist attacks, and in the face of an ongoing economic boycott intended to suffocate our sole democratic ally in the region, Israel has never considered suspending the democratic process.

Mr. President, Prime Minister Rabin will visit this country in a few days. Since his election, he has shown Israel's continued commitment to the peace process by encouraging an acceleration of discussions and working for a quick agreement on an autonomy plan. In office less than a month, he has shown clearly and forcefully through his actions that he and the Israeli people are committed to peace and will work tirelessly to achieve a just and secure peace.

I am certain that all of my colleagues join Senator MITCHELL, Senator DOLE, and myself in congratulating the citizens of Israel on concluding fair and open democratic elections, in welcoming Prime Minister Rabin to the United States, and in encouraging all parties in the Middle East to actively and seriously engage in the peace process.

AMENDMENTS SUBMITTED

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT FOR FISCAL YEAR 1993

BUMPERS AMENDMENT NO. 2881

Mr. BUMPERS proposed an amendment to the bill (H.R. 5503) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1993, and for other purposes, as follows:

Strike all after the first word and insert the following:

"SEC. . (a) None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to accept or process applications for a patent for any mining or mill site claim located under the general mining laws or to issue a patent for any mining or mill site claim located under the general mining laws.

"(b) Notwithstanding any other provision of law, any legal action, including an action for declaratory judgment, to challenge the legality of this provision as it applies to patent applications which were filed with the Department of the Interior on or before the date of enactment of this Act and for which all requirements established under sections 2325 and 2326 of the Revised Statutes (30 U.S.C. 29 and 390) for vein or lode claims and sections 2329, 2330, 2331, and 2333 of the Revised Statutes (30 U.S.C. 35, 36 and 37) for placer claims, and section 2337 of the Revised Statutes (30 U.S.C. 42) for mill site claims, as the case may be, were fully complied with by such date, shall be brought within 6 months after the date of enactment of this Act in the United States Claims Court, which shall have exclusive original jurisdiction over any such action. In addition to the current authority of such Court, United States Claims Court is authorized for the purposes of this section only, to provide declaratory relief. Such action shall be barred unless a complaint is filed within the time specified.

"(c) If the moratorium as it applies to patent applications referenced in subsection (b) of this section is held to be invalid by a final nonappealable decision, subsection (a) shall not apply to such patent applications and such applications shall be processed in accordance with the laws in existence on the day prior to the date of enactment of this Act.".

REID (AND OTHERS) AMENDMENT NO. 2882

Mr. REID (for himself, Mr. DOMENICI, Mr. DECONCINI, and Mr. BRYAN) proposed an amendment to amendment No. 2881 proposed by Mr. BUMPERS to the bill H.R. 5503, supra, as follows:

In lieu of the language proposed to be inserted insert the following:

( ) MINING PROVISIONS.—

(1) PAYMENT OF FAIR MARKET VALUE.—Any person receiving a patent pursuant to the Act commonly known as the Mining Law of 1872 (sections 2319 et seq. of the Revised Statutes) shall pay fair market value for the interest in the land owned by the United States exclusive of and without regard to the mineral deposits in the land.

(2) LIMITATIONS.—

(A) IN GENERAL.—Any land patented after the date of enactment of this Act pursuant to section 2325 of the Revised Statutes (30 U.S.C. 29), section 2333 of the Revised Statutes (30 U.S.C. 37), or section 2337 of the Revised Statutes (30 U.S.C. 42) shall be used only for mineral exploration, mineral development, mining, mineral processing, benefication, or uses reasonably incident to those uses, except with the approval of the Secretary.

(B) REVERSION.—Title to the land referred to in subparagraph (A) shall revert to the United States if the land is used for any unauthorized or unapproved use, and the unauthorized or unapproved use is not discounted within a time period specified by the Secretary (but not earlier than 90 days after the Secretary gives the owner of the land written notice to discontinue the unapproved use) and if the Secretary elects to enforce the reversionary interest. The reversion shall be made effective if the Secretary files a declaration of reversion in the office of the Bureau of Land Management designated by the Secretary of the Interior, and records the declaration in the county recorder's office of the county in which the lands subject to a reversion under this paragraph are situated. Not later than 30 days after recording the declaration of reversion, the Secretary shall serve on the owner of the reverted lands a recorded copy of the declaration, in the same manner that a summons and complaint are served under the Federal Rules of Civil Procedure under title 28, United States Code.

(C) RENOUNCING OF REVERSIONARY INTEREST.—If the Secretary finds that it would not be in the best interest of the United States to exercise the reversion for any reason, including any case in which—

(i) any portion of the lands included in the patent have been used for solid waste disposal or for any other purpose that may result in the disposal, placement, or release of a hazardous substance: or

(ii) continuance of the reverter serves no public purpose,

the Secretary may renounce the reversionary interest of the United States in the lands included in the patent by filing and recording a declaration of renouncement in the same offices in which a declaration of reverter would have been filed.

(D) REQUIREMENT FOR PATENTS.—Each patent to land acquired under section 2325 of the Revised Statutes (30 U.S.C. 29), section 2333 of the Revised Statutes (30 U.S.C. 37), or section 2337 of the Revised Statutes (30 U.S.C. 42) shall state that the patent is subject to the provisions of this subsection.

(3) RECLAMATION.—Any land patented after the date of enactment of this Act shall be subject to the mining reclamation law of the State in which the land is located. In the absence of applicable State mining reclamation law, the land shall be subject to Federal mining reclamation law. Each patent shall recite that as a condition of the patent, the land patented shall be reclaimed to comply with Federal law or to comply with the mining reclamation law of the State in which the land is located.

(4) DEFINITIONS.—As used in this subsection:

(A) HAZARDOUS SUBSTANCE.—The term "hazardous substance" has the same meaning provided the term under section 101(14) of the Comprehensive Response, Compensation and Liability Act (42 U.S.C. 9601 (14)).

(B) SECRETARY.—Unless specifically designated otherwise, the term "Secretary" means—

(i) The Secretary of the Interior with respect to patents issued for lands over which the Bureau of Land Management has jurisdiction; or

(ii) the Secretary of Agriculture with respect to patents issued for lands within national forests.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1993

DANFORTH AMENDMENT NO. 2883

Mr. DANFORTH proposed an amendment to amendment No. 2841 proposed by Mr. GRAHAM to the bill (H.R. 5518) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1993, and for other purposes, as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. . EMPLOYEE CONSIDERATIONS IN AIRLINE ROUTE TRANSFERS.

(a) IN GENERAL.—Section 401(h) of the Federal Aviation Act of 1958 (49 App. U.S.C. 1371(h)) is amended by adding at the end the following new paragraph:

"(4) Employee Considerations.—

"(A) Consideration of Employment Opportunities.—In reviewing a proposed transfer of a foreign air transportation route certificate, the Secretary of Transportation shall give consideration to assuring employment opportunities for employees of the air carrier transferring the certificate. Those opportunities shall not discriminate on the basis of race, color, religion, national origin, sex, age, or disability. Consideration shall also be given to provisions for seniority integration as provided for in the seniority integration protections specified in Tiger International Seaboard Acquisition Case, CAB Docket 33712.

"(B) Employment Plan.—Upon application for approval of such a certificate transfer, the acquiring carrier shall submit its plan for employment that projects the number of employees of the transferring carrier who will be hired by the acquiring carrier, the crafts and national origin of those employees, and a timetable for implementation of that employment plan.

"(C) Mandatory Findings.—The Secretary may approve the transfer of a foreign air transportation route certificate only if the Secretary makes specific findings that—

"(i) the employment plan submitted under subparagraph (B) does not discriminate on the basis of race, color, religion, national origin, sex, age, or disability;

"(ii) reasonable attempts have been made by the acquiring carrier to provide employment opportunities for employees of the transferring carrier; and

"(iii) the employment plan would not adversely affect the viability of the transaction.

"(D) Evaluation.—Within 1 year after the approval by the Secretary of a transfer of a foreign air transportation route certificate, the Secretary shall conduct an evaluation of the implementation of the employment plan submitted under subparagraph (B).".

(b) DUTY TO HIRE PROTECTED EMPLOYEES.—Section 43(d)(1) of the Airline Deregulation Act of 1978 is amended by striking "10" and inserting in lieu thereof "17".

(c) Effective Date.—The amendments made by subsection (a) shall apply with respect to any application filed after the date of enactment. With respect to any application filed after July 26, 1991, but before the date of enactment, the acquiring carrier must submit the employment plan specified in paragraph (B) and that the provisions in paragraph (D) apply.

BOND (AND OTHERS) AMENDMENT NO. 2884

Mr. BOND (for himself, Mr. NICKLES, Mr. GRAHAM, Mr. WARNER, Mr. LEVIN, Mr. MCCAIN, Mr. HEFLIN, Mr. COATS, Mr. KASTEN, Mr. BOREN, Mr. SEYMOUR, and Mr. MCCONNELL) proposed an amendment to the bill H.R. 5518, supra, as follows:

On page 19, line 17, strike "$18,006,250,000" and insert "$16,899,250,000".

On page 57, strike line 21 through line 25.

On page 58, strike line 1 through "distribute" on line 4.

On page 60, line 20, after "Code;" insert "obligations under section 157 of title 23, United States Code;"

CRANSTON AMENDMENT NO. 2885

Mr. LAUTENBERG (for Mr. CRANSTON) proposed an amendment to the bill H.R. 5518, supra, as follows:

AMENDMENT NO. 2885

At the appropriate place in the bill, insert the following new section:

SEC. . LOS ANGELES METRO RAIL.

(a) REPLACEMENT OF GRANTEES.—Effective on the date of enactment of this Act, the Los Angeles County Transportation Commission (hereinafter in this section referred to as the "Commission") shall replace the Southern California Rapid Transit District (hereinafter in this section referred to as the "SCRTD") as the federal grantee for the Minimum Operable Segment One (hereinafter in this section referred to as "MOS–1") of the Los Angeles Metro Rail project. The MOS–1 Full Funding Grant Agreement dated August 27, 1986, and all other MOS–1 grant documents required under federal law, shall be deemed to be amended, effective on the date of enactment of this Act, to designate the Commission as MOS–1 grantee; and all rights and obligations as MOS–1 grantee shall be transferred to the Commission on that date in accordance with the Memorandum of Understanding for the Transfer of MOS–1 Project, entered into by and between the Commission and SCRTD on June 24, 1992. No action by the Secretary of Transportation or other administrative action shall be required in order for the Commission to proceed to act in its capacity as MOS–1 grantee pursuant to this section.

(b) OBLIGATIONS OF COMMISSION.—Upon becoming the MOS–1 grantee under this section, the Commission shall be responsible for completion of the MOS–1 Project in accordance with the terms and conditions of the MOS–1 Full Funding Grant Agreement and other applicable grant agreements and in compliance with all applicable federal laws and regulations. In addition, the Commission shall remain responsible for all MOS–1 obligations arising prior to the date of enactment of this Act, in accordance with the Commission's Guarantee of Performance to the United States dated April 3, 1990.

(c) AVAILABILITY OF FUNDS.—All funds previously obligated to SCRTD under section 3 and section 9 of the Federal Transit Act, and unexpended on the date of enactment of this Act, shall be transferred to the Commission on such date and shall be available to the Commission to pay costs associated with the completion of MOS–1. Notwithstanding any other provision of law, neither the replacement of grantees under subsection (a) nor the transfer of funds under this subsection shall be considered to be a change in project scope or otherwise result in the deobligation of prior year funds, and all funds transferred to the Commission under this subsection shall be charged to the original appropriation and shall remain available until expended.

(d) DEFINITION.—For purposes of this section:

(1) the terms "Los Angeles County Transportation Commission" and "Commission" shall include any successor to the Commission that is established by or purant to State law; and

(2) the terms "Southern California Rapid Transit District" and "SCRTD" shall include any successor to SCRTD that is established by or pursuant to State law.

(e) Of the funds made available for the Los Angeles Metro Rail project, 45.45 per centum shall be for Minimum Operable Segment–2 and 54.55 per centum shall be for Minimum Operable Segment–3 of Metro Rail. Of the amounts for Minimum Operable Segment–3, an equal one-third share shall be provided for each of the three lines described in section 3034(i)(3) of the Intermodal Surface Transportation Efficiency Act.

At the appropriate place in the bill, insert the following new section:

SEC. . SAN JOSE-GILROY-HOLLISTER COMMUTER RAIL PROJECT.

Section 3035(h) of the Intermodal Surface Transportation Efficiency Act of 1991 is amended by striking in the second sentence all after "one-time" and inserting in lieu thereof the following: "purchase of additional trackage rights and/or purchase of right-of-way between the existing termini in San Jose and Gilroy, California. In connection with the purchase of such additional trackage rights and/or purchase of right-of-way, the Secretary shall either approve a finding of no significant impact, or approve a final environmental impact statement and issue a record of decision no later than July 1, 1994. No later than August 1, 1994, the Secretary shall negotiate and sign a grant agreement with the Santa Clara County Transit District which includes the funds made available under this section for the purchase of additional trackage rights and/or purchase of right-of-way.

SPECIAL RULE FOR TMAS THAT DO NOT CONTAIN AN URBANIZED AREA OVER 200,000 POPULATION

On page 109, line 15, insert "(1)" before "Funds".

On page 109, line 21, insert the following:

"(2) Section 9(m)(1) of the Federal Transit Act (49 U.S.C. App. 1607(a)(m)(1)) is amended striking in the first sentence "urbanized areas of 200,000 or more population" and inserting the following: "transportation management areas established under section 8(i)".

METZENBAUM AMENDMENT NO. 2886

Mr. LAUTENBERG (for Mr. METZENBAUM) proposed an amendment to the bill H.R. 5518, supra, as follows:

On page 12, line 23, strike the period and insert in lieu thereof: ": *Provided further*, That of the funds available under this heading, $500,000 shall be made available to the Cleveland Clinic Foundation to initiate a definitive study to evaluate the human factors related to and/or inherent in pilot error. This study will be carried out in conjunction with Ohio State University.".

LAUTENBERG AMENDMENT NO. 2887

Mr. LAUTENBERG proposed an amendment to the bill H.R. 5518, supra, as follows:

At the appropriate place at the end of title III, insert:

"SEC. . Notwithstanding any other provision of law, funds made available under this Act and previous Acts for the intermodal fuel cell bus facility program under the Federal Transit Administration's Discretionary Grants account shall be transferred to that agency's Transit Planning and Research account and be administered in accordance with section 6 of the Federal Transit Act, as amended."

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1993

SIMPSON (AND LIEBERMAN) AMENDMENT NO. 2888

Mr. BYRD (for Mr. SIMPSON, for himself, and Mr. LIEBERMAN) proposed an amendment to the bill H.R. 5503, supra, as follows:

On page 18, line 24, increase the amount by $600,000.

LIEBERMAN AMENDMENT NO. 2889

Mr. BYRD (for Mr. LIEBERMAN) proposed an amendment to the bill H.R. 5503, supra, as follows:

On page 20, line 21, increase the amount by $115,000.

INOUYE AMENDMENT NO. 2890

Mr. BYRD (for Mr. INOUYE) proposed an amendment to the bill H.R. 5503, supra, as follows:

Insert where appropriate:

SEC. . REMOVAL OF RESTRICTIONS.

(a) PURPOSE.—The United States hereby relinquishes any rights arising from restrictions described in subsection (c), subject to the condition that the real property be used for public purposes in perpetuity, as specified in subsection (b).

(b) IN GENERAL.—The Secretary of the Interior shall execute such instruments as are necessary to remove the restrictions described in subsection (c) that are applicable to the use of the real property consisting of approximately 55.31 acres located in Halawa, Ewa, Island of Oahu, State of Hawaii, being the major portion of the former Halawa-Aiea Veterans Housing Area, and currently known as Aloha Stadium. The removal of the restrictions shall be on condition that the real property be used for public purposes in perpetuity.

(c) RESTRICTIONS.—The restrictions referred to in subsection (b) are those reservations, exceptions, restrictions, conditions, and covenants requiring that the real property referred to in subsection (a) be used in perpetuity for a public park and public recreation area and for these purposes only, as set forth in the quitclaim deed from the United States of America dated June 30, 1967.

RUDMAN AMENDMENT NO. 2891

Mr. BYRD (for Mr. RUDMAN) proposed an amendment to the bill H.R. 5503, supra, as follows:

On page 95, line 16, decrease the number by $750,000.

On page 57, line 12, increase the number by $1,350,000 and on line 13, increase the number by $1,350,000.

BYRD (AND NICKLES) AMENDMENT NO. 2892

Mr. BYRD (for himself and Mr. NICKLES) proposed an amendment to the bill H.R. 5503, supra, as follows:

On page 73, line 22, linetype "on" and insert "or".

NICKLES AMENDMENT NO. 2893

Mr. BYRD (for Mr. NICKLES) proposed an amendment to the bill H.R. 5503, supra, as follows:

(a) Notwithstanding the provisions of section 101(c) of Public Law 98-473, Act of October 12, 1984, 98 Stat. 1849 [25 U.S.C. 123c], the Secretary of the Interior is authorized in his discretion, to pay lawful debts incurred on behalf of the Kiowa Comanche Apache Intertribal Land Use Committee in connection with the construction and operation of the Native Sun Water Park in Lawton, Oklahoma, from funds in the United States Treasury held jointly for the Kiowa, Comanche and Apache Tribes. Provided however that such payments may not exceed an aggregate of $1.3 million.

(b) Prior to exercising the discretion described in section (a), the Secretary or his designee shall provide written notice to the Kiowa Comanche Apache Intertribal Land Use Committee describing with specificity the nature and amount of the obligation(s) the Secretary intends to pay. In the event the Kiowa Comanche Apache Intertribal Land Use Committee does not provide documentation to the Secretary within 30 days justifying why the amount(s) should not be paid, the Secretary may exercise his discretion to pay the obligation(s).

BYRD (AND NICKLES) AMENDMENT NO. 2894

Mr. BYRD (for himself and Mr. NICKLES) proposed an amendment to the bill H.R. 5503, supra, as follows:

On page 46, line 17, reduce the number by $2,271,000.

GRAHAM AMENDMENT NOS. 2895 THROUGH 2899

Mr. GRAHAM proposed five amendments to the bill H.R. 5503, supra, as follows:

AMENDMENT NO. 2895

On page 46, line 17, strike out "$65,904,000" and insert in lieu thereof "$63,633,000".

AMENDMENT NO. 2896

On page 46, line 23, strike out "$31,468,000" and insert in lieu thereof "$31,128,000".

AMENDMENT NO. 2897

On page 47, line 4, strike out "$23,958,000" and insert in lieu thereof "$23,741,000".

AMENDMENT NO. 2898

On page 47, line 8, strike out "$2,260,000" and insert in lieu thereof "$2,215,000".

AMENDMENT NO. 2899

On page 47, line 13, strike out "$2,480,000" and insert in lieu thereof "$2,190,000".

STEVENS AMENDMENT NO. 2900

Mr. STEVENS proposed an amendment to the bill H.R. 5503, supra, as follows:

At page 11, line 24, strike all after "quality standards:" through page 14, line 2 and insert in lieu thereof, the following: "*Provided further*, That notwithstanding any other provision of law, that effective upon the date of enactment of this Act, for fiscal year 1993, for each unpatented mining claim, mill or tunnel site on federally owned lands, in lieu of the assessment work requirements contained in the mining law of 1872 (30 U.S.C. 28–28e), and the filing requirements contained in section 314 (a) and (c) of the Federal Land Policy and Management Act of 1976 (FLPMA) (43 U.S.C. 1744 (a) and (c)), any claimant not meeting the conditions in the following sentence shall pay a claim rental fee of $100 to the Secretary of the Interior or his designee on or before August 31, 1993 in order for the claimant to hold such unpatented mining claim, mill or tunnel site for the year ending on September 1, 1993: *Provided further*, That for fiscal year 1993, any claimant that is producing from 10 or fewer claims in an integrated operating area that has less than 10 acres of unreclaimed surface disturbance from mining activity may elect to either pay a claim rental fee as described in the preceding sentence for fiscal year 1993 or in lieu thereof do assessment work required by the mining law of 1872 (30 U.S.C. 28–28e) and meet the filing requirements of FLPMA (43 U.S.C. 1744 (a) and (c)) on such 10 or fewer claims in such integrated operating area and certify such to the Secretary by August 31, 1993: *Provided further*, That for each fiscal year after fiscal year 1993, for each unpatented mining claim, mill or tunnel site on federally owned lands, in lieu of the assessment work requirements contained in the mining law of 1872 (30 U.S.C. 28–28e) and filing requirements of FLPMA (43 U.S.C. 1744 (a) and (c)), claimants not meeting the conditions in the following sentence shall pay an annual claim rental fee of $100 per claim to the Secretary of the Interior or his designee on or before August 31 of the preceding fiscal year in order for the claimant to hold such unpatented mining claim, mill or tunnel site for the following year beginning on September 1: *Provided further*, That in each fiscal year after fiscal year 1993, claimants that are producing from 10 or fewer claims in an integrated operating area that has less than 10 acres of unreclaimed surface disturbance from mining activity may elect to either pay a claim rental fee as described in the preceding sentence for the year or in lieu thereof do assessment work required by the mining law of 1872 (30 U.S.C. 28–28e) and meet the filing requirements of FLPMA (43 U.S.C. 1744 (a) and (c)) on such 10 or fewer claims in such integrated operating area and certify such to

the Secretary by August 31 of the preceding fiscal year: *Provided further*, That for every unpatented mining claim, mill or tunnel site located after the date of enactment of this Act, the locator shall pay $100 to the Secretary of the Interior of his designee at the time the location notice is recorded with the Bureau of Land Management to hold such claim for the year in which the location was made: *Provided further*, That the coownership provisions of the mining law of 1872 (30 U.S.C. 28–28e) will remain in effect except that the annual claim rental fee, where applicable, shall replace applicable assessment requirements and expenditures: *Provided further*, That failure to make the annual payment of the claim rental fee as required by this Act shall conclusively constitute an abandonment of the unpatented mining claim, mill or tunnel site by the claimant: *Provided further*, That nothing in this Act shall change or modify the requirements of Section 314(b) of FLPMA (43 U.S.C. 1744(b)) or the requirements of section 314(c) of FLPMA (43 U.S.C. 1744(c)) related to filings required by Section 314(b), which shall remain in effect: *Provided further*, That the Secretary of the Interior shall promulgate rules and regulations to carry out the purposes of this section as soon as practicable after the effective date of this Act.".

FOWLER AMENDMENTS NOS. 2901 AND 2902

Mr. FOWLER proposed two amendments to the bill H.R. 5503, supra, as follows:

AMENDMENT NO. 2901

Beginning on page 54, line 25, strike "$1,306,077,000" and all that follows through "*Provided*," on page 55, line 5, and insert the following: "$1,271,077,000, to remain available for obligation until September 30, 1994, and including 65 per centum of all monies received during the prior fiscal year as fees collected under the Land and Water Conservation Fund Act of 1965, as amended, in accordance with section 4 of the Act (16 U.S.C. 4601–6a(i)): *Provided*, That not more than $58,216,000 shall be made available for timber sales preparation, except that the amount of funds made available for timber sales preparation for national forests identified as having negative receipts from timber sales in the annual report of the Timber Sale Program for fiscal year 1992 shall be reduced by $35,000,000, with the reduction to be made on a pro-rata basis based on the quantity of timber sold from each forest in fiscal year 1992: *Provided further*, That the Secretary of Agriculture may not sell at less than cost a quantity of timber located on National Forest System lands that is more than 75 percent of the volume of the timber sold at less than cost for fiscal year 1992: *Provided further*,".

AMENDMENT NO. 2902

At the appropriate place, insert the following new section:

SEC. . FOREST SERVICE DECISIONMAKING AND APPEALS REFORM.

(a) FOREST SERVICE NOTICE AND COMMENT PROCESS.—

(1) IN GENERAL.—In accordance with this subsection, the Secretary of Agriculture (referred to in this section as the "Secretary"), acting through the Chief of the Forest Service, shall establish a notice and comment process for proposed actions of the Forest Service concerning projects and activities implementing land and resource management plans developed under the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1601 et seq.).

(2) NOTICE.—Prior to proposing an action referred to in paragraph (1), the Secretary shall give notice of the proposed action, and the availability of the action for public comment, by—

(A) promptly mailing relevant information about the proposed action to any person who, in writing, has requested it, and to persons who are known to have participated in the decisionmaking process; and

(B)(i) in the case of an action taken by the Chief of the Forest Service, publishing notice of the action in the Federal Register; or

(ii) in the case of any other action referred to in paragraph (1), publishing notice of the action in a newspaper of general circulation that has previously been identified in the Federal Register as the newspaper in which notice under this paragraph may be published.

(3) COMMENT.—The Secretary shall accept comments on the proposed action that are post-marked or filed within 30 days after publication of the notice in accordance with paragraph (2).

(4) ISSUANCE OF DECISION.—Not later than 21 days after the termination of the comment period in accordance with paragraph (3), the Secretary shall consider the comments received and—

(A) issue a decision on the proposed action (including a discussion of the comments); or

(B)(i) determine that a delay in issuing a decision on the proposed action is necessary because—

(I) an issue raised by a comment requires further environmental analysis; or

(II) the consideration of the comments cannot be completed within the 21 days; and

(ii) give written notice of the delay to all persons who submitted comments.

(b) FOREST SERVICE ADMINISTRATIVE APPEALS PROCESS.—

(1) IN GENERAL.—In accordance with this subsection, the Secretary shall establish an administrative appeals process for the appeal of decisions of the Forest Service concerning projects and activities implementing land and resource management plans developed under the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1601 et seq.). The process shall provide, at a minimum, one level of administrative review.

(2) TIME FOR APPEALS.—A person may seek review of an agency decision described in paragraph (1) by filing an appeal not later than 45 days after the date on which the decision is issued.

(3) AGENCY DECISION.—An appeal under paragraph (2) shall be decided not later than 45 days after the date on which the appeal is filed. If the Secretary fails to decide the appeal within the 45-day period, the decision on which the appeal is based shall be deemed to be final agency action for the purpose of chapter 7 of title 5, United States Code.

(4) AUTOMATIC STAY PENDING APPEAL.—An agency decision described in paragraph (1) shall be stayed beginning on the date the decision is issued and ending—

(A) if no appeal of the decision is filed, 45 days after that date; or

(B) if an appeal of the decision is filed, 30 days after the earlier of—

(i) the disposition by the reviewing office of all appeals of the decision; or

(ii) the end of the 45-day agency review period provided for in paragraph (3).

NOTICE OF HEARINGS

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding a markup on Thursday, August 6, 1992, beginning at 9:30 a.m., in 485 Russell Senate Office Building on S. 2833, the Crow Settlement Act; S. 2836, to promote economic development on Indian reservations by making loans to States to assist States in constructing roads on Indian reservations; and S. 3118, the Indian Business Opportunities Enhancement Act, to be followed immediately by a joint hearing with the House Committee on Interior and Insular Affairs on H.R. 5735 and S. 3125, to amend the Southern Arizona Water Rights Settlement Act of 1962.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224–2251.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON WESTERN HEMISPHERE AND PEACE CORPS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Western Hemisphere and Peace Corps Affairs of the Foreign Relations Committee be authorized to meet during the session of the Senate on Wednesday, August 5, at 8:30 a.m. to hold a hearing on the Cuban Democracy Act of 1992—S. 2918.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Wednesday, August 5, 1992, at 10 a.m., for a hearing on "Ready to Learn: Television as Teacher."

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON POW/MIA AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent for the Senate Select Committee on POW/MIA Affairs to meet Wednesday, August 5, 1992, at 9 a.m. in room 216 of the Hart Senate Office Building for hearings to continue the examination the Government's process of live-sighting investigations of POW/MIAs in Southeast Asia.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, August 5, at 2 p.m. to hold confirmation hearings for ambassadorial nominees.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to meet on Wednesday, August 5,

at 10 a.m. for a markup on pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON THE CONSTITUTION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on the Constitution of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Wednesday, August 5, 1992 at 10 a.m., to hold a hearing on the Hate Crime Statistics Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITEE ON BANKING, HOUSING AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Banking Housing, and Urban Affairs be authorized to meet during the session of the Senate Wednesday, August 5, 1992, at 10 a.m. to conduct a hearing on the semiannual review of the Resolution Trust Corporation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, August 5, 1992, at 2 p.m. to hold a hearing on S. 640, product liability.

The PRESIDING OFFICER. Without objection, it is so ordered.

YAVNEH ACADEMY'S 50TH ANNIVERSARY

• Mr. LAUTENBERG. Mr. President, I rise today in honor of Yavneh Academy which is celebrating its 50th anniversary this year. Yavneh Academy will be inaugurating this auspicious occasion with the dedication of the Sarah and Leon Broch Bet Midrash and the Hynda and Murray Feit Educational Center on September 13, 1992.

When it was founded in 1942, the Paterson Yavneh Yeshiva opened its doors to six children registered in a kindergarten class. It was the first Yeshiva day school established in northern New Jersey. Due to great leadership, dedication, and idealism, the academy experienced tremendous growth over the years. Today Yavneh Academy, located in Paramus, educates 750 students from prekindergarten through eighth grade.

Mr. President, the Yavneh Academy has a unique and positive approach to teaching children. Yavneh immerses its students in a religious environment; one that instills the value of Judaism and the importance of quality academic education. Half of the school day is comprised of Judaic studies. These classes are conducted in Hebrew and are designed to help students understand and analyze their religion's history, language, and beliefs.

Yavneh is extremely proud of its general studies program due to the high scores its students receive on standardized tests and high school qualifying entrance exams. Yavneh owes this accomplishment to its broad and thorough curriculum. Students are taught math, science, computer science, social studies, and language and communication skills.

Beyond academics, Yavneh Academy offers specialized programs designed to enrich the lives of its students. The Mitzvah Program encourages students to follow the teachings of the Torah and to perform good deeds. Yavneh students bring joy to senior citizen and nursing homes during the school's community outreach trips and provide the opportunity for all to share their knowledge. Other various activities are offered, including science fairs, the Holocaust program, sports, drama, music, a mathematics league, and participation in the annual salute to Israel parade.

Mr. President, I extend to Yevneh Academy faculty, students, and alumni my heartiest congratulations as they celebrate this significant milestone. May the academy continue to grow through outstanding, challenging courses tempered with religious studies in a Jewish climate.•

THE 150TH ANNIVERSARY OF PEOPLE'S BANK

• Mr. DODD. Mr. President, I rise to congratulate People's Bank on its 150th anniversary.

Throughout this period, People's Bank has played a leading role in supporting communities across the State of Connecticut. As our largest savings bank, People's has continually demonstrated an awareness of the needs of our communities, and it is constantly designing and implementing programs to satisfy those needs. By offering a broad range of credit services, while maintaining the flexibility to tailor its services, People's has for years successfully met the diverse credit needs of our communities.

As an entity concerned with its customers' abilities to get the most out of their resources, People's Bank has been an innovator and leader. Recognizing the importance of homeownership, People's Bank took the lead as master servicer and leading lender for the State treasurer's affordable residential mortgage plan [STAR], a successful program which offered potential home buyers advantages that were not traditionally available under conventional financing, including below-market interest rates, flexible underwriting guidelines, increased income-to-debt ratios and reduced closing costs.

When People's realized the troubles many Hispanics encountered in acquiring credit, it developed a bilingual secured-card program—Via Telemundo Credit Card Program—and aimed it at those who did not already have established credit and who, due to a lack of credit history, would not normally qualify for such credit.

More generally with respect to credit cards, People's has gone against the national trend and consistently offered cards with one of the lowest annual percentage rates [APR's] available anywhere in the country.

The list goes on and on. People's Bank can proudly say that it has actively participated in nearly every major State and Federal housing program in which it has had an opportunity to partake, a role that truly deserves to be lauded.

To its additional credit, through employee voluntarism and monetary donations, People's supports nonprofit community development projects statewide. Besides committing its own resources—people, services, and money—People's Bank makes substantial charitable donations to agencies throughout the State which are significantly involved in housing, education and children's issues.

For 150 years, People's Bank has dynamically responded to the credit needs of the State of Connecticut. As an innovator, leader, and pacesetter, it has instituted auspicious programs to aid both low-income families and senior citizens. People's has been, and continues to be, a major issuer of food stamps among local neighborhoods. People's also provides basic banking services with no fees for lower-income citizens on Connecticut income-maintenance programs.

Further, as a concerned member of our community, People's Bank responded to Connecticut's economic downturn by implementing a new customer credit counseling division to assist customers in budget management and restructuring debt.

Mr. President, I would like to thank People's Bank for its many years of community service and wish it a happy anniversary and many more.•

U.S. EXPORT PROMOTION POLICY AND PRESIDENTIAL LEADERSHIP

• Mr. ROCKEFELLER. Mr. President, 3 weeks ago, Fred Malek, the chairman of the President's reelection committee, appeared on the "McNeil-Lehrer News Hour" and pointed to the strength of U.S. exports as evidence of the President's leadership. It is ironic that Mr. Malek would want to cite export growth as synonymous with the President's leadership the same week the Department of Commerce reported that American exports dropped for the third consecutive month. It is even more ironic, if Mr. Malek wants to see U.S. exports as evidence of the President's leadership, that Business Week entitles its August 3 trade article "Exports Go Pffft." Maybe Mr. Malek is

right after all. The fact is: Our recent export strength, like the President's leadership, is fading fast.

It is, of course, true that after the dollar began to weaken in 1986, our exports grew and the U.S. trade deficit receded from the record years of the 1980's. But our exports grew despite the lack of Presidential leadership, not because of it. The hard won success of American exporters is now in danger of being erased both because of the spread of our recession abroad and because of the administration's failure to articulate and implement a trade policy that both opens markets for U.S. exports and provides U.S. exporters with support to secure these markets.

Indeed, at every turn, the President's trade initiatives have failed to produce. The Uruguay round of trade negotiations drags on into its 7th year with no resolution in sight; the multilateral steel talks ended in failure while dumped and subsidized foreign steel threatens this key United States industry; the shipbuilding talks have been scuttled while that United States industry is disappearing; the Japanese have failed to live up to the semiconductor agreement; and the United States-Canada Free-Trade Agreement seems to have generated more trade conflict than cooperation. Only the NAFTA talks seem headed for a conclusion, but they have been on the verge of a breakthrough for months.

In addition to his market opening failures, the President has also failed to provide our exporters with the type and level of Government support for exports that is urgently needed. Currently, American companies must wade through a 16 agency bureaucratic swamp of conflicting advice, limited resources, complicated rules, and bureaucratic struggles before emerging—barely competitive—in the international arena. A recent GAO report highlights the ad hoc nature of our Government's export promotion activities and concludes that they lack organizational and funding cohesiveness.

Mr. President, I believe we need to develop an aggressive and coordinated trade promotion policy for the United States. To that end, last year I introduced legislation, S. 1721, that would take several steps to end the patchwork of export promotion agencies that creates so much confusion. I am pleased that it was possible for several of the most significant provisions I proposed to be included in S. 2864, the Banking Committee's bill to reauthorize the Export-Import Bank and to promote coordination of Federal trade promotion efforts.

That bill is an important step forward. It should come to that floor shortly and I hope Senators will support it at that time. If we pass it and the President signs it, it will help get our export performance back on track, which means we can retroactively make an honest man out of Mr. Malek.●

HATE CRIMES

● Mr. SIMON. Mr. President, I would like to call attention today to a report on hate crimes issued last month by the Chicago Commission on Human Relations. The report is entitled "When Worlds Collide: Culture Conflict and Reported Hate Crimes in Chicago." This report documents hate crimes in the Chicago metropolitan area for the 6 year period from 1986 to 1991, and offers interpretations of the statistics that will certainly prove useful in combating future incidents. The report documents an increase in hate crimes, but the analysis suggests two factors contributing to the increase: Hate crimes being committed at an accelerated pace and hate crimes being reported at an accelerated pace. Obviously one factor represents a trend that we need to reverse, but the other trend is one that we must work to support; increased reporting of hate crimes is a major step toward eradication of the problem.

The report includes other useful analyses of the statistics. For example, hate crimes are most likely to occur in areas where the population is not declining, but is concentrating African-Americans, Latinos, or Asians. The principal fears triggering ethnic antagonism in these changing neighborhoods are fears that increased crime and decreased property values will be the result of an increasing percentage of minorities in a neighborhood. These prevalent, though absurd apprehensions may be shared by many potential hate crime offenders, and thus we must work to counter this type of dangerous myth. Identifying the fears that motivate hate crimes is integral to the construction of education or law enforcement programs to combat future hate crimes.

The Chicago Human Rights Commission Report provides the Chicago metropolitan area with precious information about the causes and incidence of hate crimes, but we need national information and must continue to work on the collection and dissemination of that type of data on a national scale. Spotting the patterns, understanding the causes, and predicting the hotbeds of hatred are valuable observations that may save an individual's dignity, property, or life in the future. I commend the commission's efforts and ask that a summary of their report be printed in the RECORD.

The summary follows:

COMMISSION ON HUMAN RELATIONS RELEASES SPECIAL ANALYSIS OF HATE CRIMES IN CHICAGO, JULY 8, 1992

Clarence N. Wood, Chair/Commissioner of the City of Chicago Commission on Human Relations, released today "When Worlds Collide: Culture Conflict and Reported Hate Crimes in Chicago", a special report which analyzes the causes and patterns of hostile, prejudicial interactions for the purpose of anticipating and addressing them before hate crimes occur in the future.

"I felt it necessary for the Commission to have an in-depth study done which analyzes hate crimes for a period of six years and provides information that enables the Commission to be a pro-active force and a professional agency," Wood stated.

The analysis in the report shows that the most volatile combination for producing hate crimes is a small amount of population change involving new racial and ethnic groups.

The key findings of the report include the following:

Reported hate crimes in Chicago primarily involve whites attacking non-whites, and non-whites attacking whites (a little less often) in areas where there is comparatively little decline in the neighborhood population, but where African-Americans, Latinos, and/or Asians are beginning to become concentrated.

Numerous studies point to crime and economic loss as primary fears that can trigger ethnic antagonism in changing neighborhoods. The economic tension is a fear that neighborhoods will go into decline as a result of racial change.

Racially-charged tensions about crime are most likely to occur when people believe there is little that can be done to combat a potentially growing crime problem in a community. There is a significant overlap between low homicide rates and high reported hate crime rates.

Hate crimes are most likely to occur in areas where the public assistance rate is low, but where the residents are afraid that racial/ethnic change will bring in large numbers of low-income households, leading to a chain of negative results for the community.

The pattern in hate crime reports between 1986–1991, seems to indicate that the activities surrounding the reorganization and rechartering of the Chicago Commission on Human Relations in 1990 probably caused a decline in awareness and advocacy surrounding the hate crime issue. Similarly, the rise in reported hate crimes since 1991 may be due to increasing awareness and effectiveness of the Commission's monitoring and advocacy role, and its effect on the reporting practices of victims and the police department.

The 1986–1991 citywide reported hate crime incidence rate is 4.9 reported hate crimes during the 1986–1991 period per 10,000 residents. Ten Chicago community areas had more than 11 reported hate crimes per 10,000 residents during this period. The ten community areas are: Chicago Lawn; Loop; Ashburn; Beverly; Montclare; Mount Greenwood; Gage Park; Armour Square; North Park; and Bridgeport.

"When Worlds Collide: Culture Conflict and Reported Hate Crimes in Chicago" was prepared by the Metro Chicago Information Center for the Commission.●

UKRAINIAN INDEPENDENCE

● Mr. LEVIN. Mr. President, on August 24, 1991, the Parliament of Ukraine declared Ukraine's independence and achieved the dream of generations. At long last, Ukraine was free, sovereign, and independent.

Later this month, on August 24, 1992, there will be an observance of the first anniversary of Ukrainian independence

at the Ukrainian Cultural Center in Warren, MI, as there will be celebrations all across this country, throughout Ukraine, and indeed throughout the world wherever there are people who love Ukraine, and wherever there are people who love freedom.

As a new member of the international community of free and independent nations, Ukraine has made remarkable progress on its journey toward full adherence to democratic values and individual human rights. Successful acceptance of the new Ukrainian Constitution, with respect for democratic values, will be the foundation on which a prosperous and free Ukraine will fulfill its bountiful potential.

Through seven decades of Communist oppression, the Ukrainian people retained their culture, language, religion, identity, and pride. This testifies to the strength of the people of Ukraine, who have endured so much and at this time of commemoration have so much to celebrate.

Mr. President, I join the people of Michigan in commending the people of Ukraine on this, the first anniversary of their hard-fought and newly won independence.•

F/A–18E/F

• Mr. D'AMATO. Mr. President, our colleagues on the House Armed Services Committee [HASC] have received a severe drubbing at the hands of the Navy for suggesting that prototyping the F/A–18E/F would be prudent way of demonstrating the concept and assessing program risk. The HASC is understandably reluctant to rush development of the F/A–18E/F when it is painfully aware that, billions of dollars later, naval aviation has produced little more than a handful of tie tacks and several lawsuits in the last decade. That the chosen contractor has a similarly blighted development record cannot have had a calming effect.

For its part, the Navy has gone so far as to suggest that, "[i]n essence, the F/A–18C/D is the F/A–18E/F prototype." A bold suggestion when the F/A–18E/F boasts a new fuselage, wing, tail, inlets, engines, and landing gear. The more measured Navy explanation is that the F/A–18E/F is a major modification of an existing aircraft, and, as such, is considered low risk. The record of the Navy and McDonnell Douglas suggests, however, that modifying aircraft is easier said than done. Consider the T–45.

In November 1981, McDonnell Douglas, teamed with British Aerospace, Rolls-Royce, and Sperry, won the competition for the Navy undergraduate jet fighter training system. The winners proposed a navalised version of the British Aerospace Hawk, a two-seat trainer built for the Royal Air Force. The award of the full-scale development contract followed in October 1984. Risk was considered low. The modifications required to make the Hawk carrier compatible were not nearly as substantial as those proposed in the jump from an F/A–18C/D to "E/F."

First flight of the T–45 was 5 months late. Operational testing revealed that the T–45 could not meet Navy specifications for approach speed and stall and handling characteristics. Engine performance, though meeting specification, was judged inadequate. Initial operating capability [IOC], originally scheduled for September 1990, slid to June 1991 while startup of low rate initial production, slated for 1988, was only approved in 1991. Fixes, as the Navy admitted, took longer than anticipated. Today, IOC is scheduled for November 1992, 26 months late. The recent crash of one of the T–45 prototypes at Edwards AFB may slide IOC yet again. Overruns, though disputed, hover around $300 million.

Frankly, the T–45 may not be a fair comparison with the F/A–18E/F. The T–45 is a modification of an existing aircraft; the F/A–18E/F is a new aircraft. The string of Navy development failures: Navy advanced tactical fighter, advanced tactical support aircraft, P–7 and A–12, is daunting. There are no low-risk development programs. Prototyping, combined with the sensible caps and gates established by the Senate Armed Services Committee, will ensure that F/A–18E/F cost and performance goals will be met.•

UNANIMOUS-CONSENT AGREEMENT—H.R. 4312

Mr. MITCHELL. Mr. President, I ask unanimous consent that immediately following the disposition of the Interior appropriations bill, the Senate proceed to the consideration of calendar item No. 581, H.R. 4312, the bilingual voting rights bill and that the following amendments be the only amendments in order: an amendment by Senator SIMPSON regarding 5-year extension and 20,000 threshold; an amendment by Senator SIMPSON regarding a report in 5 years on effectiveness; an amendment by Senator SIMPSON regarding Federal funding cost to local jurisdictions; an amendment by Senator BROWN regarding the basis for determining whether citizens understand English.

I further ask unanimous consent that following the disposition of the debate on the bill and the above-mentioned amendments, the bill be advanced to third reading and final passage, all without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, I just want to thank the majority leader for his accommodation of an early request of mine and his vitiating of the cloture proceeding. I always enjoy working with him and appreciate his willingness to accept things presented to him in an attitude of trust and respect. I appreciate that greatly.

Mr. MITCHELL. Mr. President, I thank my colleague. I want to state that the feelings expressed are reciprocal, and I appreciate the Senator's courtesy very much.

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:45 a.m. Thursday, August 6; that following the prayer, the Journal of proceedings be deemed approved to date, and the time for the two leaders be reserved for their use later in the day; that there then be a period for morning business not to extend beyond 10 a.m., with Senators permitted to speak therein for up to 5 minutes each, with Senator HATFIELD recognized for up to 7 minutes and Senator RIEGLE for up to 5 minutes; that at 10 a.m., the Senate resume consideration of the Department of the Interior appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9:45 A.M. TOMORROW

Mr. MITCHELL. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 10:34 p.m., recessed until Thursday, August 6, 1992, at 9:45 a.m.

NOMINATIONS

Executive nominations received by the Senate August 5, 1992:

DEPARTMENT OF STATE

ROLAND KARL KUCHEL, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF HAITI.

EDWARD S. WALKER, JR., OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE THE DEPUTY REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS, WITH THE RANK AND STATUS OF AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY.